

VETOES OF 1959

BILLS RETURNED TO THE LEGISLATURE BY THE GOVERNOR, WITH HIS OBJECTIONS THERETO, DURING ITS REGULAR SESSION ENDING JANUARY 5, 1960.

No. 1

AN ACT

Amending the act of June 27, 1947 (P.L. 1046), entitled "An act providing for equalization of assessed valuations of real property throughout the Commonwealth for use in determining the amount and allocation of Commonwealth subsidies to school districts; creating a State Tax Equalization Board; and prescribing its powers and duties; imposing duties on certain local *officers, agents, boards, commissions and departments; and making an appropriation," requiring the exclusion of the assessed valuation of certain real estate in certificates, and further regulating the valuation of real property in school districts.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 10, act of June 27, 1947 (Pamphlet Laws 1046), entitled "An act providing for equalization of assessed valuations of real property throughout the Commonwealth for use in determining the amount and allocation of Commonwealth subsidies to school districts; creating a State Tax Equalization Board; and prescribing its powers and duties; imposing on certain local officers, agents, boards, commissions and departments; and making an appropriation," is amended to read:

Section 10. Annual Reports of Local Assessing Officials.—On or before the first day of June, one thousand nine hundred forty-eight and on or before the first day of June of every year thereafter, the board of revision of taxes of counties of the first class, the board of property assessment appeals and review of counties of the second class, the board for the assessment and revision of taxes of counties of the third class and the county commissioners of all other counties shall file a certificate with the board, in such form as it may prescribe and on blanks to be furnished by it, showing the assessed valuation of all real property, *except real property on which taxes have been delinquent for five years or more and which is not titled to the county*, in each school district in the county on which the taxes for the then current year are levied. In the year one thousand nine hundred forty-eight such certificates shall be filed both with the Super-

* "offcers" in original.

intendent of Public Instruction, as now required by law, and with the board as required hereby. But thereafter no certificate shall be required to be filed with the Superintendent of Public Instruction.

Section 2. The act is amended by adding, after section 14, a new section to read:

*Section 14.1. Excluded Real Property.—Assessed *values of real property on which taxes for the current year are levied, as determined and reported under section 10 of this act, and the market values as determined by the State Tax Equalization Board, shall exclude real property on which taxes have been delinquent for five years or more and which are not titled to the county.*

Section 3. This act shall take effect immediately.

July 10, 1959.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 295, Printer's No. 544, entitled "An Act amending the act of June 27, 1947 (Pamphlet Laws 1046), entitled 'An act providing for equalization of assessed valuations of real property throughout the Commonwealth for use in determining the amount and allocation of Commonwealth subsidies to school districts; creating a State Tax Equalization Board; and prescribing its powers and duties; imposing duties on certain local officers, agents, boards, commissions and departments; and making an appropriation', requiring the exclusion of the assessed valuation of certain real estate in certificates and further regulating the valuation of real property in school districts."

This bill amends Section 10 of the Act of June 27, 1947, Pamphlet Laws 1046, and adds a new Section 14.1 authorizing local assessing officials to except from their report of the assessed valuation of all real property in the counties the real property on which taxes have been delinquent for five years or more and which are not titled to the county.

The principal function of the State Tax Equalization Board is to equalize valuations of real property throughout the Commonwealth for use in determining the amount of Commonwealth subsidies to school districts. When title to properties is taken in the name of the counties, total market value is decreased and, by operation of the reimbursement fraction, State subsidies to school districts in the counties are correspondingly increased.

The original intent of this bill to eliminate the accumulation of delinquent taxes and present a fair assessment list for tax purposes is laudable. However, subsequent amendments to the original bill have changed its purpose and direction. In its final form, the bill condones the formulation of two separate estimates of market value: one, for reimbursement purposes, excluding real property on which

* "value" in original.

taxes have been delinquent for five years or more and which have not been titled to the county; and another, for purposes of floating bonded indebtedness including all properties titled to private owners. The latter formulation provides an unrealistic fiscal picture for presentation to prospective bondholders. Above all, this feature is a fatal defect.

It is unfortunate that time limitations do not permit recall of this bill for amendment, and therefore, for the above reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 2

AN ACT

Amending the act of May 1, 1929 (P.L. 1216) entitled "An act to define real estate brokers and real estate salesmen; and providing for the licensing, regulation, and supervision of resident and nonresident real estate brokers and real estate salesmen and their business," redefining real estate broker and salesman, and deleting the provisions relating to limited licenses.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsections (a) and (c) of section 2, act of May 1, 1929 (P. L. 1216), known as the "Real Estate Brokers License Act of one thousand nine hundred and twenty-nine," amended January 18, 1952 (P. L. 2117), are amended to read:

Section 2. (a) The term "real estate broker" shall include all persons, copartnerships, associations, and corporations, foreign and domestic, who, for another and for a fee, commission, or other valuable consideration, shall sell, exchange, purchase, or rent, or shall negotiate the sale, exchange, purchase or rental, or shall offer or attempt to negotiate the sale, exchange, purchase or rental, or shall hold himself or themselves out as engaged in the business of selling, exchanging, purchasing, or renting of any real estate, interest in real estate, the property of another, whether the same shall be located within the State of Pennsylvania, or elsewhere, or shall collect or offer or attempt to collect rental for the use of real estate, the property of another, or shall negotiate or offer or attempt to negotiate a loan, secured or to be secured by mortgage or other encumbrance upon or transfer of any such real estate. It shall also include any person, copartnership, association, or corporation employed by the owner or owners of lots, or other parcels of real estate [, including cemetery lots,] at a stated salary, or upon a commission or upon a salary and commission basis or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt to negotiate the sale or exchange of any such lot or parcel of real estate. One act in consideration of compensation, by fee, commission or otherwise, of buying, selling, renting or exchanging any such real estate of or for another, or attempting or offering so to do, or negotiating a loan upon or leasing or renting or placing

for rent any such real estate, or collection of rent therefrom, shall constitute prima facie evidence that the person, copartnership, association, or corporation, so acting or attempting to act, is a real estate broker within the meaning of this act. The term "real estate broker" shall also include real estate appraisers, as well as all managers of office buildings, apartment buildings, and other buildings, and persons employed by the owners of such buildings, banking institutions and trust companies for the foregoing purposes.

* * * * *

(c) Neither of the said terms "real estate broker" or "real estate salesman" shall be held to include within the meaning of this act any person, firm, association, partnership or corporation who, as owner, shall perform any of the acts with reference to property owned by them, nor any person who sells land by public auction for or on behalf of the owner or owners thereof, nor any person holding in good faith a duly executed letter of attorney from the actual owner of any real estate, authorizing the sale, conveyance or leasing of such real estate for and in the name of such owner, or the negotiating of any loan thereon, where such letter of attorney is recorded in the office of the recorder of deeds, nor shall they be held to include, in any way, attorneys at law and justices of the peace, nor shall they be held to include any receiver, trustee in bankruptcy, administrator or executor, or any other person or corporation acting under the appointment or order of any court, or as trustee under the authority of a will or deed of trust where only the transactions pertaining thereto are involved, or the duly elected executive officer of any banking institution or trust company operating under the banking laws of Pennsylvania where real estate of the banking institution or trust company only is involved, nor shall they be held to include any officer or employee of a cemetery company who [, as incidental to his principal duties and without remuneration therefor, shows lots in such company's cemetery to persons for their use as a family burial lot, and who accepts deposits on such lots for the representatives of the cemetery company, legally] is authorized to sell [the same] *cemetery lots, plots and mausoleum spaces or openings.*

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Section 2. Section 6.1 of the act, added January 18, 1952 (P. L. 2109), is repealed.

November 19, 1959.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 1116, Printer's No. 1334, entitled "An Act amending the act of May 1, 1929 (Pamphlet Laws 1216) entitled 'An act to define real estate brokers and real estate salesmen; and providing for the licensing, regulation, and supervision of resident and nonresident real estate brokers and real estate salesmen and their business', redefining real estate broker and salesman, and deleting the provisions relating to limited licenses."

This bill amends the "Real Estate Brokers License Act of one thousand nine hundred and twenty-nine." Its purpose is to revise the meaning of "Real Estate Broker" and "Salesman" and hence to

limit the act's regulatory scope so as not to include any officer or employe of a cemetery company who might sell cemetery plots, lots and the like.

Under the present law, those who seek to engage in such activity must be approved by the State Real Estate Commission as persons who on the basis of their backgrounds may be expected to deal honorably with the public. The existence of such law, as it has been diligently enforced by the Commission, has enabled our State, unlike many others to avoid the "racket" which specializes in the sale of "bogus" cemetery lots.

However, our fortunate condition would be jeopardized by the enactment of this amendment. It would exempt persons engaged in the sale of cemetery lots from the regulatory scope of this act without providing for any effective substitute form of public protection. This bill therefore is not in the public interest.

Our position has the support of the State Real Estate Commission which goes beyond foreseeing the public harm to predicting the harm to the real estate profession, itself, which may follow from this amendment. For, the Commission recognizes that while the amendment may exempt cemetery lots from the Real Estate Licensing Law, the public will not observe the distinction. Should the sales of these lots be made in an unscrupulous manner, the public will identify them, as it has in the past, as real estate transactions and hold the real estate profession responsible.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 3

AN ACT

Amending the act of June 3, 1937 (P. L. 1225), entitled "An act concerning game and other wild birds and wild animals; and amending, revising, consolidating, and changing the law relating thereto," providing for additional annual charges to be paid by the Commonwealth for the benefit of counties, township roads and schools.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 905, act of June 3, 1937 (Pamphlet Laws 1225), known as "The Game Law," is amended to read:

Section 905. Fixed Charges.—Lands or buildings to which title has been taken in the name of the Commonwealth, for use of the commission, by purchase, gift or otherwise, shall be exempt from the payment of all taxes, except such fixed charges as apply to and are imposed upon State forests, *and except an additional annual charge of one cent per acre for the benefit of the county in which the lands are located, and except an additional annual charge of one-half cent per acre for the benefit of the roads in the township where the lands are located, and except an additional annual charge of four and one-half cents per acre for the benefit of the schools in the respective school*

districts in which the lands are located. All such additional annual charges shall be paid to the counties in which the land is located and the county commissioners in such counties shall disburse to those entitled thereto the additional annual charges for the benefit of townships and school districts. The county commissioners of every county receiving payments under this section shall submit such reports as the commission shall require.

Section 2. This act shall take effect immediately.

November 19, 1959.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 476, Printer's No. 1663, entitled "An Act amending the act of June 3, 1937 (Pamphlet Laws 1225), entitled 'An act concerning game and other wild birds and wild animals; and amending, revising, consolidating, and changing the law relating thereto', providing for additional annual charges to be paid by the Commonwealth for the benefit of counties, township roads and schools."

This bill is intended to impose upon lands held by the Game Commission an annual charge of one cent per acre for the benefit of the county in which the lands are located, an annual charge of one-half cent per acre for the benefit of roads in the township where the lands are located and an annual charge of four and one-half cents per acre for the benefit of the schools in the respective school districts in which the lands are located.

This bill would impose what are in effect taxes on lands held by the Game Commission while leaving exempt all other instrumentalities of the Commonwealth which hold real estate. There is no just reason to single out the Game Commission for the imposition of this onerous burden.

For this reason, the bill is not approved.

DAVID L. LAWRENCE

No. 4

AN ACT

Amending the act of May 21, 1931 (P. L. 149), entitled, as amended, "An act imposing a State tax, payable by those herein defined as distributors, on liquid fuels used or sold and delivered within the Commonwealth, which are practically, and commercially suitable for use in internal combustion engines for the generation of power; providing for the collection and lien of the tax, and the distribution and use of the proceeds thereof; requiring such distributors to secure permits, to file corporate surety bonds and reports, and to retain certain records; imposing duties on retail dealers, common carriers, county commissioners, and such distributors; providing for rewards; imposing certain costs on counties; conferring powers and imposing duties on certain State officers and departments; providing for refunds; imposing penalties; and making an appropriation," providing for payment of certain county treasurers' fees out of the county Liquid Fuels Tax Fund in counties of the seventh and eighth classes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsection (a) of section 10, act of May 21, 1931 (Pamphlet Laws 149), known as "The Liquid Fuels Tax Act," amended May 29, 1951 (Pamphlet Laws 485) and May 28, 1956 (Pamphlet Laws 1776), is amended to read:

Section 10. Disposition and Use of Tax.—(a) One-half cent per gallon of the permanent tax of three cents a gallon collected under the provisions of this act shall be paid into the Liquid Fuels Tax Fund of the State Treasury; and such moneys, paid into said fund, are hereby specifically appropriated for the purposes hereinafter set forth.

The moneys so paid into the Liquid Fuels Tax Fund, except those that are refunded as hereinafter provided, shall be paid to the respective counties of this Commonwealth, on the first day of June and December of each year, in the ratio that the average return made during the three (3) preceding years to each county bears to the average amount returned to all counties for the three preceding years: Provided, That the distribution of tax to the counties from the Liquid Fuels Tax Fund that is payable the first day of August, one thousand nine hundred and thirty-one, shall be made under the provisions of the acts of Assembly repealed by this act.

All moneys received by the counties hereunder shall be deposited and maintained in a special fund designated as the "County Liquid Fuels Tax Fund" into which no other moneys shall be deposited and commingled, except in any county which does not have sufficient money in such special fund to provide for payments designated in the current annual budget for payment from such special fund for the purposes of construction, reconstruction, maintenance and repair of county-owned roads, highways and bridges, property damages, interest and principal payments on road or bridge bonds, or sinking fund charges for such bonds becoming due within the current calendar year. The county, for the purpose of such payments and such payments only, may borrow and place in such special fund moneys, not in excess of the liquid fuels tax funds to be received during the current calendar year, and all such loans shall be repaid from such special fund before the expiration of the current calendar year and not thereafter. Moneys so received and deposited shall be used only for the purpose of construction, reconstruction, maintenance, and repair of roads, highways and bridges, including the payment of property damage, now due or hereafter to become due, occasioned by or the relocation or construction of highways and bridges, *and in counties of the seventh and eighth classes the payment of county treasurers' fees for receiving and disbursing moneys from the county Liquid Fuels Tax Fund*, and for the payment of interest and sinking fund charges on bonds issued or used for highways and bridge purposes, or on so much of any bonds as have been used for such purposes, and all payments made by any county, either directly or indirectly, prior to the first day of January, one thousand nine hundred and forty-six, for any or all such purposes are hereby validated: Provided, That no expenditures from the county liquid fuels tax fund shall be made by the county commissioners for new construction on roads or bridges without first having obtained the approval of the plans for such con-

struction from the Department of Highways: And provided, further, That the county commissioners shall not allocate moneys from the county liquid fuels tax fund to any political subdivision within the county, until the application and the contracts or plans for the proposed expenditures have been made on forms, prescribed, prepared and furnished, and first approved by the Department of Highways. The county commissioners of each county shall make to the Department of Highways, on or before the fifteenth day of January and July for the periods ending December thirty-first and June thirtieth, respectively, of each year, on forms prescribed, prepared and furnished by the Department of Highways, a report showing the receipts and expenditures of such moneys received by the county, from the Commonwealth under the provisions of this section. Copies of such reports shall be transmitted to the department and to the Department of the Auditor General for audit. Upon the failure of the county commissioners to file any one of such reports, or to make any payments, allocations or expenditures in compliance with the provisions of this section, the department shall withhold further payments to the county out of the Liquid Fuels Tax Fund until the delinquent report is filed, transmitted or said moneys allocated, or said expenditures for the prior six months are approved by the Department of Highways.

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Section 2. This act shall take effect immediately.

December 2, 1959.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 827, Printer's No. 960, entitled "An Act amending the act of May 21, 1931 (Pamphlet Laws 149), entitled, as amended, 'An act imposing a State tax, payable by those herein defined as distributors, on liquid fuels used or sold and delivered within the Commonwealth, which are practically, and commercially suitable for use in internal combustion engines for the generation of power; providing for the collection and lien of the tax, and the distribution and use of the proceeds thereof; requiring such distributors to secure permits, to file corporate surety bonds and reports, and to retain certain records; imposing duties on retail dealers, common carriers, county commissioners, and such distributors; providing for rewards; imposing certain costs on counties; conferring powers and imposing duties on certain State officers and departments; providing for refunds; imposing penalties; and making an appropriation', providing for payment of certain county treasurers' fees out of the county Liquid Fuels Tax Fund in counties of the seventh and eighth classes."

This bill amends Section 10 of the Liquid Fuels Tax Act to provide that in counties of the seventh and eighth classes the payment of county treasurers' fees for receiving and disbursing moneys from the county Liquid Fuels Tax Fund shall be paid out of this fund. Our examination of the Liquid Fuels Tax Act shows that the treasurers of no other counties receive any such fees for the receiving or disbursing of these funds.

To permit this bill to become law would set a precedent in enabling county treasurers to divert funds from the vital and necessary highway improvement program of the Commonwealth. This type of legislation is often followed by similar bills expanding this diversion of moneys to treasurers of other counties thereby further decreasing the amount of money available for highway improvements.

This bill is objectionable for yet another reason. Section 42 of the Act of April 15, 1834, Pamphlet Laws 537, as last amended by the Act of June 28, 1957, Pamphlet Laws 394, in Section 1 provides for the commission to county treasurers for the collection and transmission of money for the Commonwealth. That act provides that the compensation to be retained by the county treasurer for acting as the agent of the Commonwealth as provided in the act shall be in full for all services rendered by the county treasurer to the Commonwealth.

In view of this legislative pronouncement it would appear that no additional compensation is due to a county treasurer for the mere handling of moneys received by him from the Commonwealth for distribution in accordance with the mandate of the Liquid Fuels Tax Act.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 5

AN ACT

Amending the act of May 15, 1933 (P.L. 624), entitled, as amended, "An act relating to the business of banking, and to the exercise of fiduciary powers by corporations; providing for the organization of corporations with fiduciary powers, and of banking corporations, with or without fiduciary powers, including the conversion of National banks into State banks, and for the licensing of private bankers and employes' mutual banking associations; defining the rights, powers, duties, liabilities, and immunities of such corporations, of existent corporations authorized to engage in a banking business, with or without fiduciary powers, of private bankers and employes' mutual banking associations, and of the officers, directors, trustees, shareholders, attorneys, and other employes of all such corporations, employes' mutual banking associations or private bankers, or of affiliated corporations, associations or persons; restricting the exercise of banking powers by any other corporation, association, or person, and of fiduciary powers by any other corporation; conferring powers and imposing duties upon the courts, prothonotaries, recorders of deeds, and certain State departments, commissions, and officers; imposing penalties; and repealing certain acts and parts of acts," further regulating the making of installment loans.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Clause (4) of subsection A of section 1001, act of May 15, 1933 (Pamphlet Laws 624), known as the "Banking Code," amended July 27, 1953 (Pamphlet Laws 600) and June 6, 1957 (Pamphlet Laws 267), is amended to read:

Section 1001. Powers of Banks, Bank and Trust Companies or Trust Companies.—A. In addition to the general corporate powers

granted by this act, and in addition to any powers specifically granted to a bank or a bank and trust company elsewhere in this act, a bank or a bank and trust company shall have the following powers, subject to the limitations and restrictions imposed by this act:

* * * * *

(4). (a) To lend money either upon the security of real or personal property, or otherwise; to charge or to receive in advance interest therefor; to contract for a charge for a secured or unsecured installment loan, which in principal amount shall not exceed thirty-five hundred dollars, *except where the loan is made for the purpose of (1) improving real property, (2) acquiring a motor vehicle or vehicles, or (3) for the acquisition of equipment where the sales value of such equipment is in excess of fifteen hundred dollars, in which cases, the principal amount shall not exceed five thousand dollars,* and which under its terms shall be repayable in substantially equal installments over a period not exceeding three years, which charge shall be at a rate not exceeding six dollars per one hundred dollars per annum upon the original face amount of the instrument or instruments evidencing the loan for the entire period of the loan, and which such charge may be collected in advance: Provided, That if the entire unpaid balance outstanding on a loan is paid by cash, renewal, or otherwise at any time prior to maturity, the bank or bank and trust company, shall give a refund or credit of the unearned portion of such charge, which refund or credit shall represent at least as great a proportion of the original charge as the sum of the periodical time balances after the date of prepayment bears to the sum of all the periodical time balances under the schedule of payments in the original instrument or instruments evidencing the loan: Provided, however, That the bank, or bank and trust company, shall not be required to make a refund or credit where the amount thereof, computed as herein set forth, would be less than one dollar for each loan paid prior to the maturity date. No additional amount shall be charged or contracted for, directly or indirectly, on or in connection with any such installment loan, except the following: [(a)] (i) Delinquency charges not to exceed five cents for each dollar of each installment more than fifteen days in arrears: Provided, That the total of delinquency charges on any such installment loan shall not exceed fifteen dollars, and only one delinquency charge shall be made on any one installment, *except where the loan has been made for the purchase of a motor vehicle by the user thereof, in which case, the delinquency charges shall not exceed two percentum per month on the amount of any installment payment not made within fifteen days on the due date: Provided, That such charges may be computed on the basis of a full calendar month for any fractional month period in excess of fifteen days and may be charged on each such payment in arrears until paid, and that such charges may be collected when earned during the term of the contract or may be accumulated and collected at final maturity or at the time of final payment under the contract, but such charge shall not be collected on any payment in default because of any acceleration provision in the contract in lieu of but not in addition to delinquency charges authorized by this subclause; (i) a charge for an extension for a period of not exceeding three months of not less*

than one dollar and not more than one percentum per month or fractional month period in excess of fifteen days of the then unpaid balance on such installment loan may be made; [(b)] (ii) Premiums paid by the bank, or bank and trust company, for insurance required or obtained as security for or by reason of such installment loan; [(c)] (iii) Such amounts as are necessary to reimburse the bank, or bank and trust company, for fees paid to a public officer for filing, recording, or releasing any instrument or lien; and the actual expenditures including reasonable attorneys' fees for legal process or proceedings, to secure or collect any such installment loan. Any advertising concerning such installment loans which contains a statement of an amount, or rate of charge, shall also contain the percentage rate, either per month or per year, computed on declining balances of the face amount of the loan instrument to which such charge would be equivalent if the loan were repaid according to contract: Provided, That this requirement may be complied with by stating the equivalent percentage rate which would earn the charge for such a loan repayable in twelve equal consecutive monthly installments, and such stated rate may be closely approximate, rather than exact, if the statement so indicates: And provided further, That this requirement shall not apply to an advertisement in which an amount, or rate of charge, is indicated only by a table which contains and is confined to examples of the face amount of the loan instrument, the proceeds to the borrower exclusive of the charge, and the amount, number and intervals of the required payments;

(b) The aggregate amount of unpaid principal due from any one borrower on one or more of the installment loans granted pursuant to the provisions of [this clause] *subclause (a) hereof* shall not at any time exceed [thirty-five hundred dollars] *the principal amounts set forth in such subclause (a)*.

(c) Nothing contained in this clause (4) shall be construed to prohibit a bank or a bank and trust company from taking a single installment note or other instrument evidencing a loan in an amount in excess of that or for a longer period not in excess of sixty months than that specified in [paragraph] *subclause (a) hereof*: Provided, That the rate of interest charged upon such excess in amount or period shall not be greater than six per centum per annum simple interest.

(d) Nothing contained in this clause (4) shall be construed to prohibit a bank, or bank and trust company, from making any loan insured by the Federal Housing Administrator pursuant to the provisions of the National Housing Act approved the twenty-seventh day of June, one thousand nine hundred thirty-four, its amendments and supplements.

(e) *The entry or recording of any such installment note which by its terms is payable within a period not exceeding five years in substantially equal installments as a judgment of record where the bank, or bank and trust company, looks for repayment from the borrower, relying primarily on either or both the borrower's general credit standing or upon a security interest in personal property or fixtures, but wishes to secure a lien upon the borrower's real estate as a precaution against contingencies shall be exempt from the requirement*

of section 1012 of this act: Provided, That a certification of the foregoing facts and a statement of the intended use of the loan shall be lodged by a responsible employe of the bank in its appropriate loan file at the time such note is entered or recorded.

Section 2. This act shall take effect immediately.

December 3, 1959.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 380, Printer's No. 1459, entitled "An Act amending the act of May 15, 1933 (Pamphlet Laws 624), entitled, as amended, 'An act relating to the business of banking, and to the exercise of fiduciary powers by corporations; providing for the organization of corporations with fiduciary powers, and of banking corporations, with or without fiduciary powers, including the conversion of National banks into State banks, and for the licensing of private bankers and employes' mutual banking associations; defining the rights, powers, duties, liabilities, and immunities of such corporations, of existent corporations authorized to engage in a banking business, with or without fiduciary powers, of private bankers and employes' mutual banking associations, and of the officers, directors, trustees, shareholders, attorneys, and other employes of all such corporations, employes' mutual banking associations or private bankers, or of affiliated corporations, associations or persons; restricting the exercise of banking powers by any other corporation, association, or person, and of fiduciary powers by any other corporation; conferring powers and imposing duties upon the courts, prothonotaries, recorders of deeds, and certain State departments, commissions, and officers; imposing penalties; and repealing certain acts and parts of acts,' further regulating the making of installment loans."

This bill amends the act commonly known as the "Banking Code." Its purpose is to permit a bank to increase the interest rate on certain types of loans in excess of \$3,500.00 but not more than \$5,000.00 from 6% simple interest which on a prepayment schedule amounts to \$3.25 per annum on each \$100.00, to \$6.00 per \$100.00 per annum collected in advance which amounts to \$6.38 per annum for every \$100.00 borrowed which is equivalent to 11.9%.

This bill would in effect almost double the interest paid on the amount of an installment loan between \$3,500.00 and \$5,000.00.

I do not believe that this bill is in the public interest. By further easing the restrictions of our usury laws, it would serve to force up interest rates at a time when they have already reached a high level because of the restrictive credit policies of the Federal government.

I do not believe that any alteration in the existing laws of this Commonwealth which increases the debt burden of the citizens of this State attributable to higher interest rates is in the public interest, particularly when a clear need for such legislation has not been established.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

AN ACT

Amending the title and act of June 17, 1915 (P. L. 1012), entitled, as amended, "An act regulating the business of loaning money in sums of six hundred (\$600) dollars or less, either with or without security, to individuals pressed by lack of funds to meet immediate necessities; fixing the rates of interest and charges therefor; requiring the licensing of lenders; and prescribing penalties for the violation of this act," increasing the maximum loan to eight hundred (\$800) dollars, increasing the rates of interest on certain balances, and extending the maturity limitation on loans.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title, the first paragraph of section 1 and sections 2 and 6, act of June 17, 1915 (P. L. 1012), entitled, as amended, "An act regulating the business of loaning money in sums of six hundred (\$600) dollars or less, either with or without security, to individuals pressed by lack of funds to meet immediate necessities; fixing the rates of interest and charges therefor; requiring the licensing of lenders; and prescribing penalties for the violation of this act," amended June 2, 1953 (Pamphlet Laws 262), are amended to read:

An Act

Regulating the business of loaning money in sums of [six hundred (\$600)] *eight hundred (\$800)* dollars or less, either with or without security, to individuals pressed by lack of funds to meet immediate necessities; fixing the rates of interest and charges therefor; requiring the licensing of lenders; and prescribing penalties for the violation of this act.

Section 1. Be it enacted, &c., That on and after the passage of this act, it shall be unlawful for any person, persons, partnership, association, or corporation within this Commonwealth, to make a loan of money, credit, goods, or things in action, in the amount or of the value of [six hundred (\$600)] *eight hundred (\$800)* dollars or less, either with or without security, to individuals pressed by lack of funds to meet immediate necessities, and charge, contract for, or receive on, any such loan a rate of interest, discount, fines, charges, or consideration, greater than six per centum (6%) per annum, without first obtaining a license from the Secretary of Banking in accordance with the provision of this act.

* * * * *

Section 2. Any person, persons, copartnership, association, or corporation who shall obtain a license in accordance with the provisions of section one of this act, shall be entitled to loan money in sums of [six hundred (\$600)] *eight hundred (\$800)* dollars or less, either with or without security, to individuals pressed by lack of funds to meet immediate necessities, at his, their, or its place of business, for which said license is issued, and to charge the borrowers thereof, for its use or loan, interest at a rate not to exceed three (3) per centum per month on that part of the unpaid principal balance of any loan not in excess of one hundred and fifty (\$150) dollars, and two (2) per centum per month on that part of the unpaid principal balance of any loan in excess of one hundred fifty (\$150) dollars but not in

excess of three hundred (\$300) dollars, and [one (1)] *one and one-half (1½)* per centum per month on *that part of the unpaid principal balance of any loan in excess of three hundred (\$300) dollars but not in excess of six hundred (\$600) dollars, and one (1) per centum per month* on any remainder of such unpaid principal balance. In the case of loans made upon the security of tangible personal property, physical possession of which is taken by the licensee, the licensee shall not charge interest at a rate in excess of such rates as are provided for by the act, approved the sixth day of April, one thousand nine hundred and thirty-seven, Number 51 (Pamphlet Laws 200), for loans of similar character, or the rates provided by this act, whichever are the lower: Provided, however, That in no event shall the rates charged exceed the rates provided by this act. No licensee shall induce or permit any borrower to split up or divide any loan. No licensee shall induce or permit any person, nor any husband and wife jointly or severally, to become obligated directly or contingently, or both, under more than one contract of loan at the same time, for the purpose or with the result of obtaining a higher rate of interest than would otherwise be permitted by this section. No fees, fines, or other charges, either in addition to or as a part of the above specified interest, shall be charged or collected under any pretext whatsoever.

A contract for a loan under the provisions of this act shall not be made for a period in excess of [twenty-four (24)] *thirty (30)* months. Interest on any unpaid balances after [twenty-four (24)] *thirty (30)* months shall be payable at the rate of six (6%) per centum per annum. Interest shall not be payable in advance or compounded, and shall be computed only on unpaid balances for the time that has elapsed at date of payment. Whenever a judgment is entered after the enactment of this act, following the expiration of contracts made prior to the enactment of this act, interest shall be computed at the rate of six (6%) per centum per annum. If interest in excess of that hereinbefore prescribed shall be received by any licensee, the said licensee shall thereupon lose all his right to collect or receive the interest allowed under this act, and shall be entitled to recover from the borrower only the amount actually loaned, together with interest at the rate of six per centum per annum upon unpaid balances, less any and all amounts already paid by the borrower on account of said loan, either as principal or interest. Any person, borrowing money from any licensee under this act, who shall be charged and pay any interest in excess of that prescribed and allowed by the provisions of this act, shall be entitled to recover back from the lender, by action at law begun at any time within two years from the date of the last payment, any and all sums of money so charged and paid in excess of the amount of the original loan, together with interest at the rate of six per centum per annum upon unpaid balances up to the date of final payment of said loan, and in addition fifty (\$50) dollars as a penalty, to be paid to the borrower.

Section 6. A. Every person, persons, copartnership, association, or corporation licensed under this act, or any partner, director, officer, agent, or member thereof, who shall violate any provision of this act, or shall direct or consent to such violation, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a

fine of not more than five hundred (\$500) dollars for the first offense; and, for each subsequent offense, a like fine, and to suffer imprisonment not to exceed six months, or both, in the discretion of the court.

B. Every person, persons, copartnership, association, or corporation, or any partner, director, officer, agent, or member thereof, who shall, directly or indirectly, as principal, agent, or broker, by any device, subterfuge or pretense whatsoever, charge, contract for, or receive any interest, discount, fees, fines, charges or consideration greater than six per centum (6%) per annum upon the loan, use or forbearance of money, goods, or things in action, or upon the loan, use or sale of credit, of the amount or value of [six hundred (\$600)] *eight hundred (\$800)* dollars or less, without having obtained a license under this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than five hundred (\$500) dollars or more than five thousand (\$5,000) dollars, or to suffer imprisonment of not less than six (6) months or more than three (3) years, or both, at the discretion of the court.

C. No loan of the amount or value of [six hundred (\$600)] *eight hundred (\$800)* dollars or less for which interest, discount, fees, charges or consideration greater than six per centum (6%) per annum has been charged, contracted for, or received, except as authorized by this act, wherever made, shall be enforced in this Commonwealth, and the borrower shall not be required to pay any principal, interest or charges whatsoever. This provision shall not apply to loans legally made in any state which then has in effect a regulatory small loan law similar in principal to this act.

D. The payment of [six hundred (\$600)] *eight hundred (\$800)* dollars or less in money, credit, goods, or things in action as consideration for any sale or assignment of, or order for the payment of, wages, salary, commissions, or other compensation for services, whether earned or to be earned, shall, for the purposes of regulation under this act, be deemed a loan secured by such assignment, and the amount by which such assigned compensation exceeds the amount of such consideration actually paid, shall, for the purpose of regulation under this act, be deemed interest or charges upon such loan from the date of such payment to the date such compensation is payable. Such transactions shall be governed by and subject to the provisions of this act.

E. The payment of [six hundred (\$600)] *eight hundred (\$800)* dollars or less in money, credit, goods or things in action as consideration for any sale of real or personal property which is made on condition or agreement, expressed or implied, that such property be sold back at a greater price, shall, for the purpose of this act, be deemed to be a loan secured by such property, and the amount by which the repurchase price exceeds such original purchase price actually paid, shall be deemed interest or charges upon such loan from the date such original payment is made until the date such repurchase price is paid. Such transaction shall be governed by and subject to the provisions of this act.

F. When real or personal property is pledged as security on a loan of [six hundred (\$600)] *eight hundred (\$800)* dollars or less, and the lender requires the borrower to pay for insurance thereon, or

when the lender requires life insurance as security to a loan of [six hundred (\$600)] *eight hundred (\$800)* dollars or less, such charge for insurance shall be construed as interest under this act when the lender has failed to have such insurance written by an insurance company legally authorized to conduct business in Pennsylvania. When the amount charged for such insurance is in excess of the standard cost of similar insurance in other insurance companies, legally authorized to conduct business in Pennsylvania, the excess shall be construed as interest under this act.

Section 2. The provisions of this act shall become effective thirty days after final enactment.

December 3, 1959.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 868, Printer's No. 1599, entitled "An act amending the title and act of June 17, 1915 (Pamphlet Laws 1012), entitled, as amended, 'An act regulating the business of loaning money in sums of six hundred (\$600) dollars or less, either with or without security, to individuals pressed by lack of funds to meet immediate necessities; fixing the rates of interest and charges therefor; requiring the licensing of lenders; and prescribing penalties for the violation of this act', increasing the maximum loan to eight hundred (\$800) dollars, increasing the rates of interest on certain balances, and extending the maturity limitation on loans."

This bill amends what is commonly known as the "Small Loan Act." Its purpose is to increase by $\frac{1}{2}\%$ the amount of interest which can be charged on amounts borrowed in excess of \$300 but not more than \$600 and to increase the amount of money that a small loan licensee can lend from \$600 to \$800 with payments extended over a period of 30 months rather than 24.

Present law permits small loan companies to collect interest at a rate not to exceed 3% per month on the part of the unpaid principal balance of any loan not in excess of \$150 and 2% per month on that part of the unpaid principal balance of any loan in excess of \$150, but not in excess of \$300 and 1% per month on that part of the unpaid principal balance of any loan in excess of \$300 but not in excess of \$600.

The interest rate under the present act is so fixed that the borrower is required to pay the high rate of 3% on the unpaid balance up to \$150 until the last cent is paid. An extended maturity with an additional $\frac{1}{2}\%$ interest would increase the total cost of the loan to those individuals least able to pay. These two factors with an additional increase of \$200 in the amount allowed to be lent would increase the cost considerably more than the $\frac{1}{2}\%$ interest increase on the amount between \$300 and \$600 would indicate upon a casual reading.

I do not believe that this bill is in the public interest. It would further restrict our usury laws. It would help force up interest rates when they have already reached a high level because of the restrictive credit policies of the Federal government. At the same time, the net earnings of small loan companies have steadily increased so that lending institutions are suffering no economic hardship under present interest limitations.

I do not believe that any alteration in the existing laws of this Commonwealth which increases the debt burden of the citizens of this State attributable to higher interest rates is in the public interest, particularly when a clear need for such legislation has not been established.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 7

AN ACT

Amending the act of June 1, 1956 (P. L. 1959), entitled "An act fixing the salaries and compensation of the Chief Justice and judges of the Supreme Court, the President Judge and judges of the Superior Court, the judges of the courts of common pleas, the judges of the orphans' courts, the judges of the Municipal Court of Philadelphia and the judges of the County Court and Juvenile Court of Allegheny County, certain associate judges not learned in the law, certain State officers and the salary and expenses of the members of the General Assembly, and repealing certain inconsistent acts," increasing the compensation of judges of the Municipal Court of Philadelphia.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 7, act of June 1, 1956 (Pamphlet Laws 1959), entitled "An act fixing the salaries and compensation of the Chief Justice and judges of the Supreme Court, the President Judge and judges of the Superior Court, the judges of the courts of common pleas, the judges of the orphans' courts, the judges of the Municipal Court of Philadelphia and the judges of the County Court and Juvenile Court of Allegheny County, certain associate judges not learned in the law, certain State officers, and the salary and expenses of the members of the General Assembly, and repealing certain inconsistent acts," is amended to read:

Section 7. The annual salary of [the President Judge of the Municipal Court of Philadelphia shall be eighteen thousand five hundred dollars (\$18,500), and the annual salary of] each of the [other] judges of the Municipal Court of Philadelphia shall be [eighteen thousand dollars (\$18,000) *twenty-two thousand five hundred dollars (\$22,500)*].

Section 2. This act shall take effect January 1, 1960.

December 10, 1959.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 453, Printer's No. 1594, entitled "An Act amending the act of June 1, 1956 (Pamphlet Laws 1959), entitled 'An act fixing the salaries and compensation of the Chief Justice and judges of the Supreme Court, the President Judge and judges of the Superior Court, the judges of the courts of common pleas, the judges of the orphans' courts, the

judges of the Municipal Court of Philadelphia and the judges of the County Court and Juvenile Court of Allegheny County, certain associate judges not learned in the law, certain State officers and the salary and expenses of the members of the General Assembly, and repealing certain inconsistent acts', increasing the compensation of judges of the Municipal Court of Philadelphia.''

While the Act of June 1, 1956, P. L. 1959, regulates the salaries of the Judges of the Supreme Court, the Superior Court, the courts of common pleas of the fifty-seven judicial districts, the judges of the orphans' courts, the judges of the county and juvenile courts of Allegheny County and the judges of the Municipal Court of Philadelphia, as well as the associate judges, this bill merely is concerned with the judges of the Municipal Court of Philadelphia. The amendatory language of the bill increases the annual salary of the President Judge of the Municipal Court of Philadelphia from \$18,500 to \$22,500, and each of the other Judges of the Municipal Court of Philadelphia from \$18,000 to \$22,500.

The Act of January 5, 1952, Pamphlet Laws 1821, fixed the salaries of these judges at \$14,500 for the President Judge and \$14,000 for the other Judges of the Municipal Court of Philadelphia. By the Act of June 1, 1956, Pamphlet Laws 1959, these salaries were raised by \$4,000.

I know of no reason for selecting these judges for such preferential consideration and discriminating against other members of the judiciary. The needs of the judiciary should be considered as a whole and not in this piecemeal manner. A study and survey should be made which could serve as a foundation for sound legislative action. House Bill No. 2393, providing for a court administrator, would have furnished us with the means of procuring valuable data and information which would have been helpful in the consideration of this type of legislation.

The biennial costs to the taxpayers of the increases provided by this bill amount to \$125,000. To this amount must be added the increased cost for contributions to the retirement fund. These would be substantial. No appropriation is included in this bill for these added financial burdens, when the Commonwealth is already in an austere fiscal situation.

I am fully aware of the responsibility which I share not only with the General Assembly but with the citizens of this Commonwealth to maintain our judicial system, independent of the pressures exerted upon them, particularly of a financial nature, since it is in the final analysis the "keeper" of our individual rights and privileges so unequivocally impounded by our Constitution.

However, if prior to the 1961 session such a documented study as mentioned above that would justify an increase in salary in this area could be properly before the public, General Assembly and executive, I am sure this serious consideration would follow.

Nevertheless, a raise in salary of \$8,500 in little more than a three year period not only appears difficult to substantiate on the basis of workload, but I am sure would be impossible to explain to the taxpaying public.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

AN ACT

Amending the act of June 1, 1956 (P. L. 1959), entitled "An act fixing the salaries and compensation of the Chief Justice and judges of the Supreme Court, the President Judge and judges of the Superior Court, the judges of the courts of common pleas, the judges of the orphans' courts, the judges of the Municipal Court of Philadelphia and the judges of the County Court and Juvenile Court of Allegheny County, certain associate judges not learned in the law, certain State officers, and the salary and expenses of the members of the General Assembly, and repealing certain inconsistent acts," increasing the compensation of judges of the County Court and Juvenile Court of Allegheny County.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 8 and 9, act of June 1, 1956 (Pamphlet Laws 1959), entitled "An act fixing the salaries and compensation of the Chief Justice and judges of the Supreme Court, the President Judge and judges of the Superior Court, the judges of the courts of common pleas, the judges of the orphans' courts, the judges of the Municipal Court of Philadelphia and the judges of the County Court and Juvenile Court of Allegheny County, certain associate judges not learned in the law, certain State officers, and the salary and expenses of the members of the General Assembly, and repealing certain inconsistent acts," are amended to read:

Section 8. The annual salary of [the President Judge of the County Court of Allegheny County shall be eighteen thousand five hundred dollars (\$18,500), and the annual salary of] each of the [other] judges of the County Court of Allegheny County shall be [eighteen thousand dollars (\$18,000)] *twenty-two thousand five hundred dollars (\$22,500)*.

Section 9. The annual salary of the judge of the Juvenile Court of Allegheny County shall be [eighteen thousand dollars (\$18,000)] *twenty-two thousand five hundred dollars (\$22,500)*.

Section 2. This act shall take effect January 1, 1960.

December 10, 1959.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 1238, Printer's No. 1597, entitled "An Act amending the act of June 1, 1956 (Pamphlet Laws 1959), entitled 'An act fixing the salaries and compensation of the Chief Justice and judges of the Supreme Court, the President Judge and judges of the Superior Court, the judges of the courts of common pleas, the judges of the orphans' courts, the judges of the Municipal Court of Philadelphia and the judges of the County Court and Juvenile Court of Allegheny County, certain associate judges not learned in the law, certain State officers, and the salary and expenses of the members of the General Assembly, and repealing certain inconsistent acts', increasing the compensation of judges of the County Court and Juvenile Court of Allegheny County."

While the Act of June 1, 1956, P. L. 1959, regulates the salaries of the Judges of the Supreme Court, the Superior Court, the courts of common pleas of the fifty-seven judicial districts, the judges of the orphans' courts, the judges of the county and juvenile courts of Allegheny County and the judges of the Municipal Court of Philadelphia, as well as the associate judges, this bill merely is concerned with the judges of the county and juvenile courts of Allegheny County. The amendatory language of this bill increases the annual salary of the president judge of the county court of Allegheny County from \$18,500 to \$22,500, and each of the other judges of the county and juvenile courts of Allegheny County from \$18,000 to \$22,500.

The Act of January 5, 1952, P. L. 1821, fixed the salaries of these judges at \$14,500 for the president judge and \$14,000 for the other judges of Allegheny County courts. By the Act of June 1, 1956, P. L. 1959, these salaries were raised by \$4,000.

I know of no reason for selecting these judges for such preferential consideration and discriminating against other members of the judiciary. The needs of the judiciary should be considered as a whole and not in this piecemeal manner. A study and survey should be made which could serve as a foundation for sound legislative action. House Bill No. 2393, providing for a court administrator, would have furnished us with the means of procuring valuable data and information which would have been helpful in the consideration of this type of legislation.

The biennial costs to the taxpayers of the increases provided by this bill amount to \$62,000. To this amount must be added the increased cost for contributions to the retirement fund. These would be substantial. No appropriation is included in this bill for these added financial burdens, when the Commonwealth is already in an austere fiscal situation.

I am fully aware of the responsibility which I share not only with the General Assembly but with the citizens of this Commonwealth to maintain our judicial system, independent of the pressures exerted upon them, particularly of a financial nature, since it is in the final analysis the "keeper" of our individual rights and privileges so unequivocally impounded by our Constitution.

However, if prior to the 1961 session such a documented study as mentioned above that would justify an increase in salary in this area could be properly before the public, General Assembly and executive, I am sure this serious consideration would follow.

Nevertheless, a raise in salary of \$8,500 in little more than a three year period not only appears difficult to substantiate on the basis of workload, but I am sure would be impossible to explain to the tax-paying public.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

AN ACT

Amending the act of May 1, 1933 (P. L. 103), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," changing the amount of dues which may be paid by the township to the State Association of Township Supervisors.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 610, act of May 1, 1933 (Pamphlet Laws 103), known as "The Second Class Township Code," reenacted and amended July 10, 1947 (Pamphlet Laws 1481) amended June 1, 1956 (Pamphlet Laws 2021) is amended to read:

Section 610. State Association Authorized.—The formation of a State Association of Township Supervisors is hereby authorized. The association shall hold annual meetings, at such time and place within the Commonwealth as it may designate, for the purpose of discussing various questions and subjects pertaining to the duties of township supervisors, and for the purpose of devising uniform, economical and efficient methods of administering the affairs of townships. All dues assessed by the association, [which shall not exceed twenty dollars per year per township,] shall be paid by the member townships from their general township funds. The officers of the state association shall consist of a president, three vice-presidents, a secretary and a treasurer, none of whom shall be interested, directly or indirectly, in the promotion or sale of road *material and equipment, but this provision shall not apply to advertisements or subject matter in any publication of the association. All of the officers, except the secretary, shall be members of the association and shall hold office for one year or until their successors are elected. The secretary may be a person not a regular member of the association and shall be paid such compensation as the other officers may determine.

Section 2. This act shall take effect immediately.

December 10, 1959.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 355, Printer's No. 1710, entitled "An Act amending the act of May 1, 1933 (Pamphlet Laws 103), entitled 'An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto', changing the amount of dues which may be paid by the township to the State Association of Township Supervisors."

This bill would amend section 610 of The Second Class Township Code, the act of May 1, 1933, Pamphlet Laws 103, as last amended by the act of June 1, 1956, Pamphlet Laws 2021, by deleting the provision

* "matrrial" in original.

that fixes the sum of \$20.00 per year per township as the maximum dues which will be assessed by the State Association of Township Supervisors and shall be paid by the member townships from their General Township Funds.

The Association of Township Supervisors is composed of all of the townships of the Commonwealth and under the provisions of section 611 of the Code, each township pays dues to the Association from the General Fund of the township.

In the interest of assuring each township of the maximum amount of dues that may be assessed by the Association and enable each township to participate in its activity, I believe that the dues assessed by the Association per township and which the member townships shall pay from their General Township Funds should be limited to at least a maximum sum to be charged for such membership.

The deletion of the \$20.00 per year membership as maximum yearly dues, in my opinion, would leave an uncontrolled and unwarranted blanket authority in the Association.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 10

AN ACT

Amending the act of May 28, 1937 (P. L. 1053), entitled "An act relating to the regulation of public utilities; defining as public utilities certain corporations, companies, associations, and persons; providing for the regulation of public utilities, including, to a limited extent, municipalities engaging in public utility business, by prescribing, defining, and limiting their duties, powers, and liabilities, and regulating the exercise, surrender or abandonment of their powers, privileges, and franchises; defining and regulating contract carriers by motor vehicles and brokers in order to regulate effectively common carriers by motor vehicle; conferring upon the Pennsylvania Public Utility Commission the power and duty of supervising and regulating persons, associations, companies, and corporations, including, to a limited extent, municipal corporations subject to this act, and administering the provisions of this act; authorizing the commission to fix temporary rates; placing the burden of proof on public utilities to sustain their rates and certain other matters; authorizing a permissive or mandatory sliding scale method of regulating rates; providing for the supervision of financial and contractual relations between public utilities and affiliated interests, and supervision and regulation of accounts and securities or obligations issued, assumed, or kept by persons, associations, companies, corporations or municipal corporations subject to this act; conferring upon the commission power to vary, reform, or revise certain contracts; conferring upon the commission the exclusive power to regulate or order the construction, alteration, relocation, protection, or abolition of crossings of facilities of public utilities, and of such facilities by or over public highways, to appropriate property for the construction or improvement of such crossings, and to award or apportion resultant costs and damages; authorizing owners of such property to sue the Commonwealth for such damages; providing for ejectment proceedings in connection with the appropriation of property for crossings; conferring upon the commission power to control and regulate budgets of public utilities; imposing

upon persons, associations, companies, and corporations (except municipal corporations) subject to regulation, the cost of administering this act; prescribing and regulating practice and procedure before the commission and procedure for review by the courts of commission action; giving the court of common pleas of Dauphin County exclusive original jurisdiction over certain proceedings; prescribing penalties, fines, and imprisonment for violations of the provisions of this act and regulations and orders of the commission, and the procedure for enforcing such fines and penalties; and repealing legislation supplied and superseded by or inconsistent with this act," prescribing an alternative method for fixing the rates of certain common carriers.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 311 of the act of May 28, 1937 (Pamphlet Laws 1053), known as the "Public Utility Law," is amended to read:

Section 311. Valuation of Property of a Public Utility.—The commission may, after reasonable notice and hearing, ascertain and fix the fair value of the whole or any part of the property of any public utility, in so far as the same is material to the exercise of the jurisdiction of the commission, and may make revaluations from time to time and ascertain the fair value of all new construction, extensions, and additions to the property of any public utility. When any public utility furnishes more than one of the different types of utility service enumerated in paragraph seventeen of section two of this act, the commission shall segregate the property used and useful in furnishing each type of such service, and shall not consider the property of such public utility as a unit in determining the value of the property of such public utility for the purpose of fixing rates.

In fixing any rate of a public utility engaged exclusively in common carriage by motor vehicles, the commission may, in lieu of other standards established by law, fix the fair return by relating the fair and reasonable operating expenses, depreciation, taxes and other costs of furnishing service to carrier operating revenues.

Section 2. This act shall take effect in ninety days.

December 10, 1959.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 2120, Printer's No. 1400, entitled "An Act amending the act of May 28, 1937 (Pamphlet Laws 1053), entitled 'An act relating to the regulation of public utilities; defining as public utilities certain corporations, companies, associations, and persons; providing for the regulation of public utilities, including, to a limited extent, municipalities engaging in public utility business, by prescribing, defining, and limiting their duties, powers, and liabilities, and regulating the exercise, surrender or abandonment of their powers, privileges, and franchises; defining and regulating contract carriers by motor vehicles and brokers in order to regulate effectively common carriers by motor vehicles; conferring upon the Pennsylvania Public Utility Commission

the power and duty of supervising and regulating persons, associations, companies, and corporations, including, to a limited extent, municipal corporations subject to this act, and administering the provisions of this act; authorizing the commission to fix temporary rates; placing the burden of proof on public utilities to sustain their rates and certain other matters; authorizing a permissive or mandatory sliding scale method of regulating rates; providing for the supervision of financial and contractual relations between public utilities and affiliated interests and supervision and regulation of accounts and securities or obligations issued, assumed, or kept by persons, associations, companies, corporations, or municipal corporations subject to this act; conferring upon the commission power to vary, reform, or revise certain contracts; conferring upon the commission the exclusive power to regulate or order the construction, alteration, relocation, protection, or abolition of crossings of facilities of public utilities, and of such facilities by or over public highways, to appropriate property for the construction or improvement of such crossings, and to award or apportion resultant costs and damages; authorizing owners of such property to sue the Commonwealth for such damages; providing for ejectment proceedings in connection with the appropriation of property for crossings; conferring upon the commission power to control and regulate budgets of public utilities; imposing upon persons, associations, companies, and corporations (except municipal corporations) subject to regulation, the cost of administering this act; prescribing and regulating practice and procedure before the commission and procedure for review by the courts of commission action; giving the court of common pleas of Dauphin County exclusive original jurisdiction over certain proceedings; prescribing penalties, fines, and imprisonment for violations of the provisions of this act and regulations and orders of the commission, and the procedure for enforcing such fines and penalties; and repealing legislation supplied and superseded by or inconsistent with this act', prescribing an alternative method for fixing the rates of certain common carriers.

This bill amends Section 311 of the Public Utility Law by providing an alternative method for valuing the property of public utilities engaged exclusively in common carriage by motor vehicles. In lieu of other standards established by law, the bill provides for fixing the fair return by relating the fair and reasonable operating expenses, depreciation, taxes and other costs of furnishing service to carrier operating revenues.

While the bill is permissive, it opens the door to consumer difficulties. It would allow the use of the present formula where it would help the utility and the use of the operating ratio formula where that would prove more beneficial. It is our opinion that this bill would place a premium upon inefficient operation.

We call your attention to the fact that a bill more protective to the consumers than the present bill, involving operating ratio, was enacted in the 1957 session and vetoed by Governor Leader.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

AN ACT

Amending the act of May 5, 1933 (P. L. 364), entitled "An act relating to business corporations; defining and providing for the organization, merger, consolidation, reorganization, winding up and dissolution of such corporations; conferring certain rights, powers, duties and immunities upon them and their officers and shareholders; prescribing the conditions on which such corporations may exercise their powers; providing for the inclusion of certain existing corporations of the second class within the provisions of this act; prescribing the terms and conditions upon which foreign business corporations may be admitted, or may continue, to do business within the Commonwealth; conferring powers and imposing duties on the courts of common pleas, and certain State departments, commissions, and officers; authorizing certain State departments, boards, commissions, or officers to collect fees for services required to be rendered by this act; imposing penalties; and repealing certain acts and parts of acts relating to corporations," changing the relationship of certain corporate directors to the corporation from fiduciaries to employes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 408, act of May 5, 1933 (Pamphlet Laws 364), known as the "Business Corporation Law," is amended to read:

Section 408. Relation of Directors and Officers to Corporation.—Officers and directors shall be deemed to stand in a fiduciary relation to the corporation, and shall discharge the duties of their respective positions in good faith and with that diligence, care and skill which ordinarily prudent men would exercise under similar circumstances in their personal business affairs: *Provided, That a fiduciary duty shall not attach to a director who is not a beneficial owner of any of the voting stock of a corporation if all the voting stock of such corporation is beneficially owned, directly or indirectly, by one or more of the other directors of such corporation and/or the family or families of such other director or directors. The term family for this purpose shall include each brother, sister, spouse, ancestor, lineal descendant and spouse of any of the foregoing.*

December 10, 1959.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 990, Printer's No. 1559, entitled "An Act amending the act of May 5, 1933 (Pamphlet Laws 364), entitled 'An act relating to business corporations; defining and providing for the organization, merger, consolidation, reorganization, winding up and dissolution of such corporations; conferring certain rights, powers, duties and immunities upon them and their officers and shareholders; prescribing the conditions on which such corporations may exercise their powers; providing for the inclusion of certain existing corporations of the second class within the provisions of this act; prescribing the terms and conditions upon which foreign business corporations may be admitted, or may continue to do business within the Commonwealth; conferring powers and imposing duties on the courts of common pleas, and certain State departments, commissions and officers, authorizing certain State departments, boards, commissions or officers to collect fees for services required to be rendered by this act; imposing penalties; and repealing

certain acts and parts of acts relating to corporations', changing the relationship of certain corporate directors to the corporation from fiduciaries to employes."

This bill proposes to amend the Act of May 5, 1933, P. L. 364, known as the "Business Corporation Law." Under existing law, officers and directors of a corporation are deemed to stand in a fiduciary relationship to the corporation and must discharge their duties in good faith and with care and skill which ordinary prudent men would exercise under similar circumstances. This bill provides, however, that the fiduciary duty shall not attach to a director who is not a beneficial owner of any of the voting stock of a corporation where all of the voting stock of such corporation is beneficially owned directly or indirectly by one or more of the other directors of such corporation and/or the family or families of such other director or directors. For the purpose of this bill, the term "family" includes brothers, sisters, spouse, ancestor lineal descendant and spouse of such director.

By virtue of his fiduciary capacity, a director owes the duty of furnishing his undivided loyalties to the corporation, so much so that he cannot seek opportunities which are within the scope of the corporate activities and are of present or potential advantage to it. He may not profit from any of his dealings unless the shareholders approve and the transaction from which he will benefit is fully disclosed to the shareholders. Where a director is personally interested in a particular transaction he has no right to vote as a director in the matter. His performance cannot be included in the computation of a quorum. He may not present claims against the corporation at a discount and act to recover the face amount of the claim. Even though he may lend money to a corporation and become its creditor, all such dealings are subject to severe scrutiny since he must act with the utmost good faith. This principle and tradition of director activity has even been carried over where there are dealings between two corporations with interlocking directorates. Such dealings are always examined with close scrutiny. Any unfairness in the transaction to one of the corporations would be grounds to set aside the transaction. All of the foregoing represent some of the principles which have been established because of the fiduciary relationship which exist between a director and a corporation. The cases which recite the rule that directors are trustees of stockholders and creditors alike are legion. A director of a corporation is a trustee for the entire body of stockholders and by assuming the office he undertakes to give his best judgment in the interest of the corporation in all matters in which he acts for it. These principles should remain applicable even though the director may not own any of the stock of the corporation and even though all of the voting stock is owned by one or more of the other directors of the corporation.

This bill would permit a director who is not a beneficial owner of any of the voting stock to enjoy the status of an employe and relieves him of the obligations which he must assume as a fiduciary. No distinction can be made here between the so-called "closed corporation" and corporations which offer their stock on the market since, in both cases, their creditors are entitled to expect the directors, in either case,

to deal with them under the trustee concept which has grown under the decisional law. So too, the owners of nonvoting stock are entitled to the same protection. Anyone who accepts the privilege of being a director of a corporation should also be willing to accept the traditionally imposed duties which demand that he remain in a fiduciary relationship to the corporation. The effect of this bill is to weaken the desired and required principles and concepts which exist for the protection of creditors and owners of nonvoting shares as well as for owners of voting shares.

For the above reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 12

AN ACT

Amending the act of April 9, 1929 (P. L. 177), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," increasing the compensation of certain members of the Pennsylvania State Police Force and fixing minimum subsistence allowances.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 205, act of April 9, 1929 (Pamphlet Laws 177), known as "The Administrative Code of 1929," amended July 10, 1957 (Pamphlet Laws 682), is amended to read:

Section 205. Pennsylvania State Police.—The Pennsylvania State Police shall consist of a Commissioner, a Deputy Commissioner, the State police force, and the State Highway Patrol, as now authorized by law, which are hereby consolidated into one force, to be known as the State Police Force, and such chiefs, statisticians, clerks, experts and other assistants, as the commissioner, with the approval of the Governor, shall deem necessary for the work of the force.

The Commissioner of the Pennsylvania State Police shall receive a salary at the rate of fifteen thousand dollars per annum.

The Deputy Commissioner of the Pennsylvania State Police shall be appointed by the Commissioner of Pennsylvania State Police, with the approval of the Governor, and shall receive a salary at the rate of ten thousand dollars per annum.

The State Police Force shall consist of such number of officers and men, and shall be organized in such manner, as the Commissioner of Pennsylvania State Police, with the approval of the Governor, shall, from time to time, determine: Provided, however, That the number of officers and men shall not exceed in the aggregate at any time one thousand nine hundred (1900) persons: And provided further, That State policemen, both officers and men, assigned to duty with the Pennsylvania Turnpike Commission, shall not be counted in determining the total number of officers and men in the State Police Force.

The members of the State Police Force and the chiefs, statisticians, clerks, experts, and other assistants, engaged in the work of the Pennsylvania State Police shall be appointed by the commissioner, and shall receive such compensation as shall be fixed by the commissioner, with the approval of the Governor, which compensation shall, however, conform to the standards established by the Executive Board, *except the compensation of members of the State Police Force holding the rank of major or below, in which case, the compensation of such members on and after January 1, 1960, shall be increased in the amount of three hundred dollars (\$300) per annum over the compensation received on the effective date of this amendment. Regardless of any other regulation all the members of the State Police Force shall receive a minimum subsistence allowance of three dollars and seventy-five cents (\$3.75) per day. Such subsistence allowance shall be paid retroactive to June 1, 1959.*

Any member of the Pennsylvania State Police, except the Commissioner and Deputy Commissioner, regardless of rank, who has attained or who shall attain the age of sixty years, shall resign from membership in the said police force: Provided, however, That the provision of this paragraph shall not apply to members of the State Police Force who upon attaining the age of sixty years shall have less than twenty years of service. Upon completion of twenty years of service the provision of this paragraph shall become applicable to such persons.

December 10, 1959.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 118, Printer's No. 1615, entitled "An Act amending the act of April 9, 1929 (Pamphlet Laws 177), entitled 'An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the man-

ner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined', increasing the compensation of certain members of the Pennsylvania State Police Force and fixing minimum subsistence allowances."

This bill amends the Act of April 9, 1929, Pamphlet Laws 177, known as "The Administrative Code of 1929," by increasing compensation of members of the State Police Force holding the rank of Major or below, by \$300.00 per year on and after January 1, 1960. In addition, all members of the Force are given a subsistence allowance of \$3.75 per day, or an increase of \$1.00 per day. This subsistence allowance is made retroactive to June 1, 1959.

I have already accomplished the objectives of this bill, both as to salary increases and subsistence allowance increase, through the action of the Executive Board. The salary increase was long overdue and I am happy that our fiscal situation was such that we were in a position to put the increase into effect. As everyone knows the cost of meals in public places has increased over the years and is far above the present subsistence allowance to members of the Force.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 13

AN ACT

Amending the act of May 26, 1949 (P. L. 1846), entitled "An act fixing the salaries of State mine inspectors under the jurisdiction of the Department of Mines and the expenses incident to their office," further regulating the salary of mine inspectors.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1, act of May 26, 1949 (Pamphlet Laws 1846), entitled "An act fixing the salaries of State mine inspectors under the jurisdiction of the Department of Mines and the expenses incident to their office," amended October 24, 1955 (Pamphlet Laws 743), is amended to read:

Section 1. The salary of mine inspectors under the jurisdiction of the Department of Mines and *Mineral Industries* of this Commonwealth shall be [eight thousand five hundred dollars (\$8,500)] *nine thousand six hundred dollars (\$9,600)* per annum, together with the necessary expenses incidental to the performance of their duties under the law, which money shall be paid in the manner now provided by law.

Section 2. This act shall take effect immediately.

December 10, 1959.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 1175, Printer's No. 1437, entitled "An Act amending the act of May 26, 1949 (Pamphlet Laws 1846), entitled 'An act fixing the salaries of State mine inspectors under the jurisdiction of the Department of Mines and the expenses incident to their office', further regulating the salary of mine inspectors."

This bill increases the salary of State mine inspectors from \$8,500.00 to \$9,600.00 per annum.

The State mine inspectors received an increase in annual salary of \$1,000.00 in 1955, so that the proposed increase is not an urgent matter. Further, the necessity for curtailing expenditures is more pressing than ever. There has been no increase in workload in this area, in fact, and unfortunately for Pennsylvania families coal mining activity has, as everyone is aware, been on the decline for many years in the Commonwealth.

However, even without the above cogent reasons, the primary deficiency in this bill and in the law itself is that these inspectors are employes of the executive branch of our government, whose salaries are at least on a par with other comparable positions of responsibility. Therefore, to maintain an integrated, comprehensive and progressive personnel program, such salaries should not be mandated by the General Assembly.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 14

AN ACT

Amending the act of August 5, 1941 (P.L. 752), entitled "An act regulating and improving the civil service of certain departments and agencies of the Commonwealth; vesting in the State Civil Service Commission and a Personnel Director certain powers and duties; providing for classification of positions, adoption of compensation schedules and certification of payrolls; imposing duties upon certain officers and employes of the Commonwealth; authorizing service to other State departments or agencies and political subdivisions of the Commonwealth in matters relating to civil service; defining certain crimes and misdemeanors; imposing penalties; making certain appropriations, and repealing certain acts and parts thereof," conferring rights on certain provisional employes and war-duration appointees.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 607, act of August 5, 1941 (Pamphlet Laws 752), known as the "Civil Service Act," amended June 21, 1947 (Pamphlet Laws 835), is amended to read:

Section 607. Status of Employes Holding Positions When Act Takes Effect.—Any employe who holds a position which is in the classified service as herein defined and which was in the classified service under the law in force immediately preceding the effective date of this act shall, if he has been appointed after appropriate competitive or competitive promotional examination and has successfully completed his probationary period, become a classified service employe under the provisions hereof and continue in that position, unless separated therefrom as herein provided. Any such employe

who has not completed such probationary period at the time this act takes effect shall retain his status as a probationary employe until the expiration of that probationary period. If he successfully completes his probationary period he shall become a classified service employe under the provisions hereof and continue in that position unless separated therefrom as herein provided. Any provisional employe holding a position in a bureau, division, board or department having a merit system under the law in force immediately preceding the effective date of this act shall become a provisional employe under the terms hereof. All war-duration appointments, reclassifications and promotions made pursuant to the provisions of the act, approved the fourth day of June, one thousand nine hundred forty-three (Pamphlet Laws 870), shall continue as war-duration appointments until appropriate eligible lists have been established and certifications made therefrom. Any employe having accepted war-duration appointment, reclassification or promotion shall have the right of return to his former position and status in the classified service.

Whenever any provisional employe having held a position which is in the classified service as herein defined, or any war-duration appointee whose appointment was made pursuant to the provisions of the act of June 4, 1943 (Pamphlet Laws 870), shall have served eight years or more in such service, and shall have taken and passed an examination for any position in such service and shall have been dismissed under the provisions of section 604 of this act or under the provisions of the act of June 4, 1943 (Pamphlet Laws 870), he shall be entitled to be reinstated with the rights of permanent tenure, transfer and promotion in the same manner as a regular employe.

December 17, 1959.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 2419, Printer's No. 1792, entitled "An Act amending the act of August 5, 1941 (Pamphlet Laws 752), entitled 'An act regulating and improving the civil service of certain departments and agencies of the Commonwealth; vesting in the State Civil Service Commission and a Personnel Director certain powers and duties; providing for classification of positions, adoption of compensation schedules and certification of payrolls; imposing duties upon certain officers and employes of the Commonwealth; authorizing service to other State departments or agencies and political subdivisions of the Commonwealth in matters relating to civil service; defining certain crimes and misdemeanors; imposing penalties; making certain appropriations, and repealing certain acts and parts thereof,' conferring rights on certain provisional employes and war-duration appointees."

This bill proposes to amend the Act of August 5, 1941, Pamphlet Laws 752, known as the "Civil Service Act," by providing in Section 607 thereof that whenever any provisional employe who has held a position in the classified service or as a war-duration employe shall

have served eight years, or more, and shall have taken and have passed an examination for any position in the classified service and shall have been dismissed under the provisions of Section 604 of the act, or under the provisions of the Act of June 4, 1943, Pamphlet Laws 870, such employe shall be entitled to be reinstated with the rights of permanent tenure, transfer and promotion in the same manner as a regular employe.

On May 29, 1958, in response to a request by the Auditor General the Department of Justice issued an opinion stating that provisional employes who had been carried on the rolls in excess of ninety days and war-duration appointees who had been employed beyond the statutory duration of their employment should forthwith be dismissed. Following that opinion, a number of such employes were separated from the classified service of the Commonwealth. A group of such employes brought an action in the Commonwealth Court and that court dismissed the action by upholding the ruling of the Department of Justice.

The proposed amendment to the Civil Service Act would now grant to such employes and perhaps others in the same category permanent civil service status. Such granting of status would not be based upon the normal prerequisites, i.e., the taking and passage of an examination for the position to be occupied, the securing of a sufficiently high score to warrant appointment and the successful performance during a prescribed probationary period. This bill would implant in the uniform civil service procedures that are applied to all persons seeking and holding civil service positions a bit of special legislation designed to benefit a limited few. If the persons in question were given status by virtue of this amendment a serious problem would arise as to those individuals who have been properly appointed to fill their vacancies. At best, it would require reshuffling of positions, at worst, it would now require the furloughing of individuals who have been properly qualified under the provisions of the Civil Service Act. It is also doubtful whether this bill would meet the standards of the Federal government which financially aids many of the Commonwealth's departments covered by civil service. The Federal government requires that persons holding a position be qualified to perform the duties of the particular job. Under the proposed amendment the individual need only have passed an examination for any position in the classified service, not necessarily the one in which he will be given a permanent status.

While this bill was originally intended to benefit eleven employes of the Liquor Control Board, its coverage is so broad as to affect all departments under civil service. In fact, we have been advised by the Regional Office of the United States Department of Health, Education and Welfare that this bill, if enacted, may place in jeopardy Federal grants received in connection with public assistance, public health, and other federally-aided programs.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

AN ACT

Amending the act of May 28, 1937 (P. L. 955), entitled, as amended, "An act to promote public health, safety, morals and welfare by declaring the necessity of creating public bodies, corporate and politic, to be known as housing authorities to engage in slum clearance, and to undertake projects, to provide dwelling accommodations for persons of low income; providing for the organization of such housing authorities; defining their powers and duties; providing for the exercise of such powers, including the acquisition of property by purchase, gift or eminent domain, the renting and selling of property, and including borrowing money, issuing bonds, and other obligations, and giving security therefor; prescribing the remedies of obligees of housing authorities; authorizing housing authorities to enter into agreements, including agreements with the United States, the Commonwealth, and political subdivisions and municipalities thereof; defining the application of zoning, sanitary, and building laws and regulations to projects built or maintained by such housing authorities; exempting the property and securities of such housing authorities from taxation; and imposing duties and conferring powers upon the State Planning Board, and certain other State officers and departments," providing that rentals to persons dependent upon veterans' benefits or public assistance grants or similar income payments from government agencies shall not be more than that charged to other families of comparable size and income.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 13, act of May 28, 1937 (Pamphlet Laws 955), known as the "Housing Authorities Law," amended May 20, 1949 (Pamphlet Laws 1614), is amended to read:

Section 13. Establishment of Rentals and Selection of Tenants.—An Authority may rent or lease dwelling accommodations only to persons of low income and at rentals within their financial reach. It may rent or lease to a tenant a dwelling consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof without overcrowding. It shall not accept any person as a tenant in any housing project if the person or persons, who would occupy the dwelling, have an aggregate annual income in excess of six times the annual rental of the quarters to be furnished such person or persons. In computing rental for the purpose of selecting tenants, there shall be included in the rental the average annual cost, as determined by the Authority, to the occupants of heat, water, electricity, gas, cooking range, and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental. Every Authority shall file a schedule of its rental charges for dwelling accommodations with the State Planning Board.

Rentals to persons dependent, in whole or in part, on veterans' benefits, public assistance grants or other income payments from government agencies shall not be more than is charged other families of comparable size and income.

Nothing contained in this or the preceding section shall be construed as limiting the power of an Authority to vest in an obligee the right, in the event of a default by the Authority, to take possession of a housing project, or cause the appointment of a receiver thereof, or

acquire title thereto through foreclosure proceedings, free from all the restrictions imposed by this or the preceding section.

Section 2. This act shall take effect immediately.

December 17, 1959.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 2417, Printer's No. 1793 entitled "An act amending the act of May 28, 1937 (Pamphlet Laws 955), entitled, as amended, 'An act to promote public health, safety, morals, and welfare by declaring the necessity of creating public bodies, corporate and politic, to be known as housing authorities to engage in slum clearance, and to undertake projects, to provide dwelling accommodations for persons of low income; providing for the organization of such housing authorities; defining their powers and duties; providing for the exercise of such powers, including the acquisition of property by purchase, gift or eminent domain, the renting and selling of property, and including borrowing money, issuing bonds, and other obligations, and giving security therefor; prescribing the remedies of obligees of housing authorities; authorizing housing authorities to enter into agreements, including agreements with the United States, the Commonwealth, and political subdivisions and municipalities thereof; defining the application of zoning, sanitary, and building laws and regulations to projects built or maintained by such housing authorities; exempting the property and securities of such housing authorities from taxation; and imposing duties and conferring powers upon the State Planning Board, and certain other State officers and departments', providing that rentals to persons dependent upon veterans' benefits or public assistance grants or similar income payments from government agencies shall not be more than that charged to other families of comparable size and income."

This bill amends the act of May 28, 1937 (Pamphlet Laws 955) known as the "Housing Authorities Law." It provides that authority "rentals to persons dependent * * * on veterans' benefits, public assistance grants or other income payments from government agencies shall not be more than is charged other families of comparable size and income."

This bill purports to reduce the expenditures of State public assistance monies. The amendatory provisions would do this by reducing substantially the rentals received by housing authorities from public assistance recipients without any compensatory increase in such person's income for non-rental purposes. When rental charges are reduced for most persons, the amount of their income for other purposes increases. That is not the situation of public assistance recipients who receive only earmarked income. In their case, as their rental charge goes down, so does their rental allotment.

It is the opinion of the housing authorities throughout the State and of the Department of Public Welfare that these amendatory provisions would not result in savings but would impose greater burdens on the authorities and their tenants. These authorities claim

that it is impossible to reduce their rentals further and still operate without loss. Consequently, the amendment leaves the authority with but one alternative, namely, the raising of the minimum rents of all persons. The authorities point out that the amount of the across the board rental increases that would be necessary would prove disastrous for many elderly tenants who are not recipients of public assistance benefits. These are the persons who receive fixed incomes under social security or other private or public pensions.

Such unfortunate consequences for persons who urgently require decent housing are a telling argument against the amendatory provisions. There are two other factors to be considered. The nature and cost of the housing projects undertaken by authorities have been based on rental rates for public assistance recipients which have been in existence for many years. Such rates were established by agreement between the former Department of Public Assistance and the Pennsylvania Association of Housing Authorities. To lower these rates, as this bill would do, would destroy the financial framework within which our public housing authorities have operated with commendatory success.

Another consideration weighing against these provisions is the obvious unreasonableness in using a basis for the public assistance housing allocation which is different for housing authorities than it is for privately supplied housing. The amount of public assistance to be earmarked for rent should depend on the quality of the housing provided the recipients rather than the nature of its ownership. We know that authority housing is equal and often superior to that provided low income groups in private housing. It would, therefore, follow that the rentals which the authorities receive from recipients of public assistance should match the amounts given to other landlords.

The reasons enumerated above are those which the Department of Public Welfare and the Housing Authorities have strongly urged upon this office for the disapproval of the amendatory provisions. They have taken the position that in its interference with the legitimate undertakings of authorities, and thereby its threat to the continued occupancy of many of their tenants, this bill is not in the public interest.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 16

AN ACT

Amending the act of May 1, 1929 (P. L. 1216), entitled "An act to define real estate brokers and real estate salesmen; and providing for the licensing, regulation, and supervision of resident and nonresident real estate brokers and real estate salesmen and their business," further regulating deposits and disbursements of funds by brokers.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subclauses (i) and (iv) of clause (11) of subsection (a) of section 10, act of May 1, 1929 (Pamphlet Laws 1216), known as the "Real Estate Broker License Act of one thousand nine hundred and twenty-nine," amended July 9, 1957 (Pamphlet Laws 608), are amended to read:

Section 10. (a) The commission may, upon its own motion, and shall, promptly, upon the verified complaint in writing of any person setting forth specifically the wrongful act or acts complained of, investigate any action or business transaction of any licensed real estate broker or real estate salesman; and shall have the power temporarily to suspend or permanently to revoke licenses theretofore issued by the department, under the provisions of this act, at any time when, after due proceedings as hereinafter provided, it shall find the holder thereof to have been guilty,

* * * * *

(11) Of failure to comply with the following requirements:

(i) [All] *Except as otherwise directed in writing by the parties to the transaction, which writing shall be separate from any real estate purchase contract or listing agreement signed by all the parties if the transaction involves such a contract or listing agreement, all deposits or other moneys accepted by every person, copartnership, corporation or association, holding a real estate broker's license under the provisions of this act, must be retained by such real estate broker pending consummation or termination of the transaction involved, and shall be accounted for in the full amount thereof at the time of the consummation or termination.*

* * * * *

(iv) [Every] *Except as otherwise directed in writing by the parties to the transaction, which writing shall be separate from any real estate purchase contract or listing agreement signed by all the parties if the transaction involves such a contract or listing agreement, every real estate broker shall immediately deposit any such moneys, of whatever kind or nature, belonging to others, in a separate custodial or trust fund account maintained by the real estate broker with some bank or recognized depository until the transaction involved is consummated or terminated, at which time the real estate broker shall account for the full amount received. Under no circumstances shall a real estate broker permit any advance payment of funds belonging to others to be deposited in the real estate broker's business or personal account [, or to be commingled with any funds he may have on deposit].*

* * * * *

December 18, 1959.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1897, Printer's No. 1657, entitled "An act amending the act of May 1, 1929 (Pamphlet Laws 1216), entitled 'An act to define real estate brokers and real estate salesmen; and providing for the licensing, regulation and supervision of resident and nonresident real estate

brokers and real estate salesmen and their business,' further regulating deposits and disbursements of funds by brokers."

This bill amends the act of May 1, 1929 (Pamphlet Laws 1216), known as the "Real Estate Brokers License Act of one thousand nine hundred and twenty-nine." It would permit a buyer and seller of real estate to agree not to be bound by the present statutory requirement that the seller's real estate broker retain a buyer's deposit or other monies until the transaction is "consummated."

The present requirement which now governs the actions of all brokers licensed by the State Real Estate Commission had a two-fold purpose. First, it was intended to assure the home buying public that a real estate broker, who is merely the agent of another, would treat the funds entrusted to his care with the utmost circumspection. Second, it had the object of preventing a broker from turning funds over to his seller principal who might then be tempted to use them for his own purposes.

For, if that were done and the seller were then unable to deliver the home contracted for, as in the case of a builder who becomes insolvent, the buyer would not even be able to recover his down payment, either from the seller or the broker. Clearly, that prospect has been rendered unlikely as a result of the present requirement that a broker escrow advanced funds upon penalty of losing his license to engage real estate transactions.

This present favorable condition for home buyers must be compared with what was to be expected before the enactment of the existing law. The State Real Estate Commission, which is the agency charged by law with regulating the activities of members of the real estate profession, has drawn our attention to a number of cases arising under earlier laws where it was powerless to punish brokers for failure to retain the deposits of buyers. Such laws stand in sharp contrast to our present statute which the Commission feels has proven itself capable of protecting buyers.

However, the evils at which the present act is aimed would again become likely under the provisions of this bill which would permit the buyer and seller to simply agree not to have the seller's broker escrow the monies advanced by the buyer. True, the waiver of the protective provisions is based on the assent of both parties, the buyer as well as the seller. And, we readily agree that the right of persons to make their own contracts is a fundamental one.

But equally fundamental is the principle that the law should protect persons, who by reason of their lack of knowledge or experience are at a distinct disadvantage in bargaining with others not similarly handicapped. We think that the ordinary home buyer or consumer is such a person and that he needs the special protection of our laws. Therefore, in weakening the important protection which the escrowing of monies affords the home buyer, the amendatory provisions are not within the public interest.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

AN ACT

Amending the act of June 1, 1959 (Act No. 77), entitled "An act relating to the retirement of public school employes; amending, revising, consolidating and changing the laws relating thereto," changing definition of final average salary for classroom school teachers with thirty-five or more years of service.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Paragraph (23), section 102, act of June 1, 1959 (Act No. 77), known as the "Public School Employes' Retirement Code of 1959," amended August 4, 1959 (Act No. 202), is amended to read:

Section 102. Definitions.—The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

* * * * *

(23) "Final average salary" shall mean the highest average annual compensation of a contributor as a school employe during any five (5) nonoverlapping periods of twelve (12) consecutive months of contributory service. In the case of any contributor with credit for multiple service, final average salary shall mean the highest average annual compensation received by a contributor as a school employe or as a State employe during any five (5) nonoverlapping periods of twelve (12) consecutive months of contributory service. *In the case of any contributor who was a classroom teacher for thirty-five (35) years or more, final average salary shall mean the maximum mandated annual salary prescribed in the "Public School Code of 1949" for classroom teachers on the date of retirement or his highest average annual compensation as a school teacher during any five (5) nonoverlapping periods of twelve (12) consecutive months of contributory service, whichever is greater.*

* * * * *

December 18, 1959.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 2371, Printer's No. 1692, entitled "An act amending the act of June 1, 1959 (Act No. 77), entitled 'An act relating to the retirement of public school employes; amending, revising, consolidating and changing the laws relating thereto', changing definition of final average salary for classroom school teachers with thirty-five or more years of service."

Under existing law, "final average salary" is defined to mean the highest annual average compensation of a contributor as a school employe during any five nonoverlapping periods of twelve consecutive months of contributory service.

This bill would redefine the term "final average salary" in the case of contributors who are classroom teachers for thirty-five years or more in which case the term "final average salary" is to mean the

maximum mandated annual salary as prescribed in the Public School Code of 1949 for classroom teachers or the highest average annual compensation as a school teacher during any five nonoverlapping periods of twelve consecutive months of contributory service, whichever is greater. In effect, this bill would permit such classroom teachers to receive a retirement based not on their actual earnings but on a salary not actually received by them and upon which they had not paid the full amount of contributions which would have been paid by them had they actually received the maximum mandated annual salary.

The maintenance of a sound retirement system is largely dependent upon the utilization of sound actuarial principles. This proposed amendment is in derogation of sound actuarial principles in that it would grant benefits not determined or determinable upon the paid-in contributions of a contributor or upon a salary actually received by the contributor. Obviously, the provisions of this bill are intended to assure contributors of the class mentioned a retirement benefit to which they would have become entitled had they received the prescribed maximum mandated annual salary which for one reason or another has not been granted to them by their employer school districts. If such classroom teachers are entitled to receive a maximum mandated salary at the time of their retirement, steps should be taken to assure them of the receipt thereof. No equitable solution is secured by following the proposed provisions of this bill, since to do so we will be sacrificing the sound financial basis of the retirement system which must be preserved for the benefit of all members.

We are also convinced that where amendments are proposed to the retirement law which are intended to increase benefits in any manner, such amendments should be made applicable to all members of the retirement system and not to one particular class.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 18

AN ACT

Authorizing the Pennsylvania Historical and Museum Commission to acquire the Wolf Academy in East Allen Township, Northampton County; providing for its restoration, improvement, future care and maintenance as an historical site; and making an appropriation.

Whereas, the Wolf Academy located near Bath in East Allen Township, Northampton County, was named in honor of George Wolf, the seventh Governor of Pennsylvania and founder of the public school system of this State, who was reared immediately adjacent thereto and educated therein, and

Whereas, this native stone structure constructed in the year 1785 provided the fine academic training necessary to enable George *Wolf

* "Wolfe" in original.

to become one of the most outstanding citizens in our early Commonwealth and to serve in such capacities as a member of the House of Representatives, Congressman and Governor, and

Whereas, the Wolf Academy is one of the earliest of our historical landmarks of which there are too few in an area so rich with historical lore, being one of the early structures erected in the first settlement of white people in Northampton County, and

Whereas, this little stone school house which is the only physical monument to George Wolf that early day statesman, who contributed so greatly toward the education and development of this Commonwealth, is in a very sad state of repair and faces the possibility of forever being lost to us as an historical structure unless funds are made available for its purchase.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The Pennsylvania Historical and Museum Commission, with the approval of the Governor, is authorized to purchase, in the name of the Commonwealth of Pennsylvania, a tract of land in East Allen Township, Northampton County, on which is erected the "Wolf Academy."

Section 2. For the purpose of acquiring, restoring and improving the Wolf Academy, the sum of ten thousand dollars (\$10,000) is hereby appropriated out of the General Fund to the Pennsylvania Historical and Museum Commission to be used for the payment of the purchase price and incidental expenses, including the completion of an abstract of title, and for repairs, improvement and other restoration work at the Wolf Academy in East Allen Township, Northampton County, and for the payment of wages, salaries or other compensation of such superintendent, guards and workmen as may be necessary for the restoration, improvement and care of said property, for the purchase of materials and equipment for contracted repairs, for the payment of professional fees for architectural supervision, for the purchase of *furnishings and articles of historic interest to the public, and for other incidental and contingent expenses.

The land shall not be acquired until its title has been approved by the Department of Justice. The deed of conveyance shall be deposited with the Secretary of Internal Affairs.

Section 3. After the acquisition, restoration and improvement of the Wolf Academy shall have been completed, the Pennsylvania Historical and Museum Commission, with the approval of the Governor, is authorized to enter into agreement with any reputable local historical organization whereby it shall have possession and administration of said property, including the grounds, in consideration of the covenant of that organization to preserve and maintain the Wolf Academy in a good state of repair and to maintain it as an historic monument open to visitation by the public.

Section 4. This act shall take effect immediately.

* "furnishings" in original.

December 21, 1959.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1322, Printer's No. 2052, entitled "An act authorizing the Pennsylvania Historical and Museum Commission to acquire the Wolf Academy in East Allen Township, Northampton County; providing for its restoration, improvement, future care and maintenance as an historical site; and making an appropriation."

This bill authorizes acquisition of Wolf Academy in Northampton County, with a ten thousand dollar (\$10,000) appropriation and a provision for local management.

The Historical and Museum Commission considers Wolf Academy of purely local interest, without State-wide or national significance as an historical shrine. It does not meet the criteria which the Commission has established for its historical acquisitions.

This property would impose an unwarranted permanent financial burden on the Commonwealth.

At a regular meeting of the Historical and Museum Commission the Commission voted against this acquisition.

A similar bill passed during the Session of 1957 was vetoed by Governor Leader.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 19

AN ACT

Defining the terms "church" and "place of actual religious worship," as used in acts of assembly heretofore and hereafter enacted, relating to the taxation of real estate.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. As used in any act of assembly relating to the taxation of real estate, the words "church" or "place of actual religious worship" shall mean buildings or structures regularly used for worship by religious congregations or bodies, the land on which they are situate and the land adjacent thereto necessary for the use of the church, and any building and lands maintained and used as a parsonage whether or not connected to or adjacent to the church building: Provided, however, That the terms of this definition shall include no more than one parsonage.

Section 2. The provisions of this act shall apply to all acts of assembly heretofore or hereafter enacted, but the provisions of this act shall not operate to relieve any person or any real estate from liability for taxes levied and assessed for the year 1959 and prior thereto.

December 21, 1959.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1830, Printer's No. 1999, entitled "An act defining the terms 'church' and 'place of actual religious worship', as used in acts of assembly heretofore and hereafter enacted, relating to the taxation of real estate."

This bill defines the terms "church" and "place of actual religious worship" as used in acts of assembly relating to the taxation of real estate. These terms as herein used mean buildings or structures regularly used for worship by religious congregations or bodies, the land on which they are situate and the land adjacent thereto necessary for the use of the church and any building and land maintained and used as a parsonage whether or not connected to or adjacent to the church building.

Article IX, Section 1 of the Constitution of Pennsylvania provides that the General Assembly may, by general laws, exempt from taxation "* * * actual places of religious worship * * *"

Section 2 of said article provides:

"All laws exempting property from taxation, other than the property above enumerated shall be void."

More than one hundred years ago it was held by the courts that a parsonage is not exempt though erected upon ground appurtenant to a church and though sometimes used for divine worship. *Dauphin County Treasurer v. St. Stephens Church*, 3 Phila. 189.

In the case of *Mullen v. Commissioners of Erie County*, 85 Pa. 288 (1877), the Supreme Court of Pennsylvania said at page 291:

"If anything be plain in the constitution, and the law passed to carry out the second clause of the first section of the eighth article relating to exemptions of churches from taxation, it is that a place of actual religious worship only can be exempted. A marked feature of this clause, which controls its interpretation, is, that no such words were used as churches, meeting-houses, or other, to designate the buildings themselves; but to prevent all doubt, the convention used the words 'actual places of religious worship.' In so doing, that body confined the scope of legislative power to the very use itself; thus taking away all excuse for loose interpretation as to the character of the building. It must be a place of religious worship. * * *"

In the case of *Presbyterian Church v. Philadelphia School District*, 171 Pa. Super. 610 (1952), the Superior Court of Pennsylvania, at page 616, said:

"* * * It is beyond legislative competence to exempt more than the property used as a place of public worship * * *"

In view of these constitutional provisions and decisions of the courts, it would be a futile gesture to approve this bill.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

AN ACT

Amending the act of December 5, 1936 (1937 P. L. 2897), entitled "An act establishing a system of unemployment compensation to be administered by the Department of Labor and Industry and its existing and newly created agencies with personnel (with certain exceptions) selected on a civil service basis; requiring employers to keep records and make reports, and certain employers to pay contributions based on payrolls to provide moneys for the payment of compensation to certain unemployed persons; providing procedure and administrative details for the determination, payment and collection of such contributions and the payment of such compensation; providing for cooperation with the Federal Government and its agencies; creating certain special funds in the custody of the State Treasurer; and prescribing penalties," extending the time during which certain persons can make application to the Civil Service Commission.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsection (e) of section 203, act of December 5, 1936 (1937 Pamphlet Laws 2897), known as the "Unemployment Compensation Law," amended September 29, 1951 (Pamphlet Laws 1580), is amended to read:

Section 203. Unemployment Compensation Board of Review.—

* * * * *

(e) The Governor shall appoint and fix the compensation of such referees as may be deemed necessary with power to take testimony in any appeals coming before the board. Such appointment shall be subject to the provisions of the act, approved the fifth day of August, one thousand nine hundred and forty-one (Pamphlet Laws 752): Provided, That any person who, on the first day of [July] *October*, one thousand nine hundred [fifty-one] *fifty-nine*, was employed as a referee and as of said date shall have completed one or more years of satisfactory service in such position, may make application to the Civil Service Commission, prior to the first day of [October] *January*, one thousand nine hundred [fifty-one] *sixty* for appointment as a referee under the regular classified service and, notwithstanding any provisions of said act or any other act to the contrary, upon finding by said commission that he or she possesses the minimum qualifications therefor, shall be so appointed. It shall be the duty of a referee, under the supervision, direction and administrative control of the board, to hear and decide disputes in accordance with the provisions of this act and to conduct such other and further hearings in connection with the foregoing as may be required by the board.

* * * * *

Section 2. This act shall take effect immediately.

December 30, 1959.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 1139, Printer's No. 1648, entitled "An act amending the act of December 5, 1936 (1937 Pamphlet Laws 2897), entitled 'An act establishing a

system of unemployment compensation to be administered by the Department of Labor and Industry and its existing and newly created agencies with personnel (with certain exceptions) selected on a civil service basis; requiring employers to keep records and make reports, and certain employers to pay contributions based on payrolls to provide moneys for the payment of compensation to certain unemployed persons; providing procedure and administrative details for the determination, payment and collection of such contributions and the payment of such compensation; providing for cooperation with the Federal Government and its agencies; creating certain special funds in the custody of the State Treasurer; and prescribing penalties; extending the time during which certain persons can make application to the Civil Service Commission."

This bill would permit the blanketing under civil service coverage of a few Unemployment Compensation appeals referees without competitive civil service examinations. It violates the standards of the Pennsylvania merit system and, as such, is undesirable. A similar bill was passed in the 1957 Session of the Legislature, Senate Bill No. 857, Printer's No. 467, and was vetoed by Governor Leader. At that time, the Federal Employment Security Agency registered objection to such a bill and has renewed these objections in connection with this bill. The objection is that the passage of this bill, in addition to straining Federal-State relationship, might require the Federal Government to hold that the State system is not in conformity with Federal standards, thereby making the State ineligible for benefits. Such result would destroy the State Unemployment Compensation program.

Serious objection to this bill has been expressed by both the Civil Service Commission and the Department of Labor and Industry and it should be noted that any such piecemeal repeal of comprehensive legislation such as the Civil Service Act is undesirable.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

VETOES

BILLS FILED IN THE OFFICE OF THE SECRETARY OF THE COMMONWEALTH BY THE GOVERNOR, WITH HIS OBJECTIONS THERETO, WITHIN THIRTY DAYS AFTER THE ADJOURNMENT OF THE LEGISLATURE ON THE FIFTH DAY OF JANUARY, 1960.

No. 21

AN ACT

Making an appropriation out of the Fish Fund to the Pennsylvania Fish Commission for expenses of a modern engineering and biological survey.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The sum of seventy-five thousand dollars (\$75,000), or as much thereof as may be necessary, is hereby appropriated out of the Fish Fund to the Pennsylvania Fish Commission for the payment of necessary expenses incurred in making a modern engineering and biological survey on ways and means of re-opening the Susquehanna River to the passage of fish which formerly inhabited the river. Such survey shall be begun as soon as possible after the effective date of this act and a report of the progress thereof shall be submitted to the General Assembly which meets in the year 1961.

Section 2. This act shall take effect April 1, 1960.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, January 7, 1960.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 298, Printer's No. 1645, entitled "An act making an appropriation out of the Fish Fund to the Pennsylvania Fish Commission for expenses of a modern engineering and biological survey."

This bill appropriates \$75,000.00 out of the Fish Fund to the Pennsylvania Fish Commission for a biological and engineering survey of means of reopening the Susquehanna River to the passage of fish, and requires a report to the General Assembly in 1961.

The Fish Commission has ample authority under existing law to undertake such a survey and has allocated \$75,000.00 of its funds

for this purpose. In fact, the preliminary work of the survey is already under way.

Moneys in the Fish Fund are appropriated generally to the Fish Commission under the basic law. This bill, therefore, amounts to a second appropriation of the same funds.

Apart from the fact that this appropriation is unnecessary, it violates the principle of the integrity of such special trust funds as the Fish Fund. Sportsmen of Pennsylvania over the years have fought vigorously to prevent any diversion of those funds, and the establishment of a precedent whereby they could be appropriated piecemeal for specific projects would sanction such diversion.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 22

AN ACT

Amending the act of June 25, 1913 (P. L. 555), entitled "An act providing for the regulation of dams, or other structures or obstructions, as defined herein, in, along, across, or projecting into all streams and bodies of water wholly or partly within, or forming part of the boundary of, this Commonwealth; vesting certain powers and duties in the Water Supply Commission of Pennsylvania, for this purpose; and providing penalties for the violation of the provisions hereof," authorizing the repair or replacement of the roadway deck or the extension of certain bridges in townships of the second class without the consent of the Water and Power Resources Board.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2, act of June 25, 1913 (Pamphlet Laws 555), entitled "An act providing for the regulation of dams, or other structures or obstructions, as defined herein, in, along, across, or projecting into all streams and bodies of water wholly or partly within, or forming part of the boundary of this Commonwealth; vesting certain powers and duties in the Water Supply Commission of Pennsylvania, for this purpose; and providing penalties for the violation of the provisions hereof," amended May 6, 1937 (Pamphlet Laws 559), is amended to read:

Section 2. [From] *Except as provided herein, from* and after the passage of this act, it shall be unlawful for any person or persons, partnership, association, corporation, county, city, borough, town, or township to construct any dam or other water obstruction; or to make or construct, or permit to be made or constructed, any change therein or addition thereto; or to make, or permit to be made, any change in or addition to any existing water obstruction; or in any manner to change or diminish the course, current, or cross section of any stream or body of water, wholly or partly within, or forming a part of the boundary of, this Commonwealth, except the tidal waters of the Delaware River and of its navigable tributaries, without the consent or permit of the Water and Power Resources Board, in writing, pre-

viously obtained, upon written application to said board therefor. *The district township engineers may authorize the repair or replacement of the roadway deck or the extension of any township bridge having a span of twenty feet or less in a township of the second class without the consent or permit of the Water and Power Resources Board. If within sixty days after filing of an application with the Water and Power Resources Board a permit is not issued or refused by the board, then, unless refused, the applicant shall have power to construct or repair the bridge in accordance with the plan or plans submitted to the Water and Power Resources Board.*

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, January 8, 1960.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 762, Printer's No. 2106, entitled "An act amending the act of June 25, 1913 (Pamphlet Laws 555), entitled 'An act providing for the regulation of dams, or other structures or obstructions, as defined herein, in, along, across, or projecting into all streams and bodies of water wholly or partly within, or forming part of the boundary of, this Commonwealth; vesting certain powers and duties in the Water Supply Commission of Pennsylvania, for this purpose; and providing penalties for the violation of the provisions hereof', authorizing the repair or replacement of the roadway deck or the extension of certain bridges in townships of the second class without the consent of the Water and Power Resources Board."

This bill seeks to amend Section 2 of the Act of June 25, 1913 by (1) exempting second class townships from the provisions, regulations and controls of the Act by empowering district township engineers, without regulatory standards, guides or limitations, to authorize the repair or replacement of the roadway deck or extension of any township bridge having a span of twenty feet or less; and (2) permitting an applicant requesting a permit from the Water and Power Resources Board to construct or repair a bridge in accordance with the plans submitted with his application when the Board fails to definitively act on said application within sixty days from the filing thereof.

Grave doubts exist in my mind as to the constitutional integrity of this bill. In my opinion, it abnegates the legal intent and purpose of the basic act as construed by our courts. Moreover, it is incompatible to the State's commitment to the Federal Government to maintain control over all our water obstructions in flood control projects sponsored by the latter. Aside from these factors, I am compelled by considerations affecting public safety and security to voice my firm disavowal. The seemingly harmless preferential treatment accorded second class townships clearly represents retrogressive legislation inasmuch as approximately twenty-seven years ago our General Assembly recognized the wisdom and need for repealing a statute enacted in 1917 conferring a similar exemption upon second class townships. Of great consequence and concern to me and the people of this Commonwealth is the fact that disaster has repeatedly taught us that the unsupervised and unregulated placement of ob-

structions in our streams carries with it extremely great potentialities of danger to the lives of persons and to properties but even greater is the potentiality of danger in the unsupervised and unregulated maintenance of such obstructions. The subservience of public safety and welfare to expediency cannot be justified.

For these reasons, the bill is not approved.

DAVID L. LAWRENCE

No. 23

AN ACT

Amending the act of August 9, 1955 (P.L. 323), entitled "An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto," authorizing the levy and collection of an additional tax for municipal improvement to lands and buildings damaged by subsidence due to underground mining of anthracite coal.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of August 9, 1955 (Pamphlet Laws 323), known as "The County Code," is amended by adding, after section 1770, a new section to read:

Section 1770.1. Additional Tax for Municipal Improvement.—The county commissioners shall have the power to levy and collect, annually, on the valuation assessed for general county purposes, as now is or may be provided by law, an additional tax not exceeding one mill, which tax shall be used by the county for municipal improvements to repairable lands and buildings, both public and private, which have been damaged by subsidence due to underground mining of anthracite coal. The tax shall be kept in a separate fund and used only for the purpose herein provided and in accordance with conditions fixed by ordinance.

Preference shall be given to improvements which involve public school buildings, municipally owned buildings and lands as well as bridges and highways not under the jurisdiction of this Commonwealth. Moneys in said fund may be invested in those securities which by law are designated as legal investments for trust funds. All interest and income from said investments shall be deposited in said fund. An annual accounting of all receipts and disbursements showing the status of said fund shall be filed with the county controller.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, January 8, 1960.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 2150, Printer's No. 2125, entitled "An act amending the act of August 9, 1955 (Pamphlet Laws 323),

entitled 'An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto', authorizing the levy and collection of an additional tax for municipal improvement to lands and buildings damaged by subsidence due to underground mining of anthracite coal."

This bill would add Section 1770.1 to the County Code to permit the levying of an additional county tax, not exceeding one mill, which would be used for municipal improvements to repairable lands and buildings damaged by subsidence due to underground mining of anthracite coal.

Subsidence due to underground mining is and has been a real problem in the anthracite and bituminous regions of the Commonwealth which can easily be seen by the many statutes concerned therewith, viz: Pamphlet Laws 1439 of 1913, Section 1155 of the Borough Code; Section 2201 of the Third Class City Code, Pamphlet Laws 1474 of 1949; Pamphlet Laws 1198 of 1921; Pamphlet Laws 2787 of 1937, and others. The many acts already on the books are both preventive and remedial in nature, but none of them intended to give the supposed relief that this bill purports to do.

Many serious questions are raised by this bill. This bill provides that tax receipts from the special levy could be used for municipal improvements to repairable lands and buildings, both public and private. Query: What is a municipal improvement to a private building?

This bill would permit improvements to be made to "repairable lands and buildings." Query: Does this mean that the cracked wall of a building could be repaired while another building damaged by subsidence to the extent that it has been condemned for human habitation would receive no aid whatsoever?

This bill is discriminatory in that it would permit a county-wide tax levy which would fall on many taxpayers who are not located in coal subsidence areas. The proposal also has the earmarks of setting an undesirable precedent which in turn would lead to other county-wide levies to benefit certain groups not based upon need. The already hard pressed mining areas are making concentrated and courageous efforts to attract new industry. The imposition of a county-wide tax to benefit only a special segment of the county would not auger well for industries considering the establishment of a plant in one of the mining areas.

While the propriety of using public monies to finance repairs on privately owned property is debatable, the fatal defect of this bill lies in the serious question of its constitutionality.

For these reasons, therefore, the bill is not approved.

DAVID L. LAWRENCE