

# VEToes OF 1955

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BILLS RETURNED TO THE LEGISLATURE BY THE GOVERNOR, WITH HIS OBJECTIONS THERETO, DURING ITS REGULAR SESSION ENDING MAY 22, 1956.

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No. 1

## AN ACT

Amending the act of June twenty-seven, one thousand nine hundred twenty-three (Pamphlet Laws 858), entitled "An act establishing a State employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing State employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon the heads of departments in which State employes serve; excepting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties," defining final salary and annual salary, and providing for retirement of members of the General Assembly.

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

Section 1. Clause seventeen of section 1, act of June twenty-seven, one thousand nine hundred twenty-three (Pamphlet Laws 858), entitled "An act establishing a State employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing State employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon the heads of departments in which state employes serve; excepting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties," amended July twenty-nine, one thousand nine hundred fifty-three (Pamphlet Laws 993), is amended to read:

Section 1. Be it enacted, &c., That 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:

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17. "Final Salary" shall mean the highest average annual salary earnable by a contributor as a State employe during any five years of service preceding retirement [except that at the member's option the salary earnable by a contributor as a State employe for the years.

beginning June one, one thousand nine hundred thirty-three and June one, one thousand nine hundred thirty-four, shall not be included in determining such "final salary"]. *In the case of a member of the General Assembly "Final Salary" shall mean his compensation for his last two year period of service plus expenses for the two year period allowed by section one, act of June twenty-four, one thousand nine hundred nineteen (Pamphlet Laws 579), as now or hereafter amended or reenacted.*

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Section 2. Subsection (5) of section seven of the act amended May twenty, one thousand nine hundred forty-nine (Pamphlet Laws 1641), is amended to read:

#### Duties of Heads of Departments

Section 7. \* \* \*

(5) The head of each department shall cause to be deducted on each and every payroll of a contributor, for each and every payroll period subsequent to December thirty-first, nineteen hundred twenty-three, such per centum of the total amount of salary earnable by the contributor in such payroll period as shall be certified to the head of each department by the retirement board as proper, in accordance with the provisions of this act. In determining the amount earnable by a contributor, the retirement board may consider the rate of salary payable to such contributor on the first day of each regular payroll period as continuing throughout such payroll period, and it may omit salary deductions for any period less than a full payroll period in cases where the member was not a contributor on the first day of the regular payroll period; and to facilitate the making of the deductions, it may modify the deduction required of any contributor by such amount as shall not exceed one-tenth of one per centum of the salary upon the basis of which the deduction is to be made. In the case of members of the General Assembly as a class, for the purposes of this act, the compensation received for each [regular and special session, if any, of the Assembly,] *two year period of service plus expenses allowed by section one, act of June twenty-four, one thousand nine hundred nineteen (Pamphlet Laws 579), as now or hereafter amended or reenacted for each two year period of service shall be construed to be the annual salary or annual earnable salary or final salary of each member. The deduction provided herein shall be made notwithstanding that minimum salaries or other compensation provided for by the laws, rules, or regulations of the Commonwealth shall be thereby reduced. The head of each department shall certify to the Treasurer of the Commonwealth, on account of each and every payroll of the contributor, a statement as voucher for the amounts so deducted, and shall send a duplicate of such statement to the secretary of the retirement board.*

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Section 3. Section seven of the act is amended by adding at the end thereof a new subsection to read:

Section 7. \* \* \*

(7) *A member of the General Assembly may pay to the retirement association a sum equal to the difference between the sum of*

*the amounts that would have been deducted from his payroll each payroll period since he became a member if he had contributed on the basis of his compensation received for each two year period of service plus expenses allowed by section one, act of June twenty-four, one thousand nine hundred nineteen (Pamphlet Laws 579), as now or hereafter amended or reenacted, for each two year period of service and the sum of the amounts actually deducted, or in lieu of the payment of a lump sum a member of the General Assembly may pay such sum in installments through payroll deductions. Such back payments may be spread over a period of years by having such regular payroll deductions of such persons increased by not less than one-third of the amount thereof, which deduction increase shall be credited to such back payments owing and shall be continued until the amount thereof shall be paid in full, unless such member is retired under the provisions of this act before such back payments have been completed. Any such deduction increase may be anticipated in full by the member at any time and shall be anticipated in full at the time of retirement before a retirement allowance is granted, and if not so anticipated, then the member's annuity shall be calculated on the total accumulated deductions standing to his credit and his State annuity shall be reduced by an amount equivalent to the reduction which occurs in the member's annuity due to the amount of the back payments not so anticipated.*

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Section 4. Section eleven of the act is amended by adding after subsection (3) thereof a new subsection to read:

Section 11. \* \* \*

*(3.1) Should a member of the General Assembly discontinue his service as a member, voluntarily or involuntarily, after having served twenty years or more as a member, he or she regardless of age shall receive a retirement allowance which shall be the actuarial equivalent of his or her accumulated deductions and a State annuity equal to one-half of his or her final salary.*

Section 5. This act shall take effect immediately.

April 9, 1955.

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

I return herewith, without my approval, Senate Bill No. 236, Printer's No. 53, entitled "An act amending the act of June twenty-seven, one thousand nine hundred twenty-three (Pamphlet Laws 858), entitled 'An act establishing a State employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing State employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon the heads of departments in which State employes serve; excepting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties,' defining final salary and annual salary, and providing for retirement of members of the General Assembly."

There are a number of objectionable features in this bill which make it undesirable and raise serious doubt as to its constitutionality. Generally, it sets up members of the General Assembly in a special category and gives them special treatment.

While I recognize the special nature of the services rendered by members of the General Assembly and feel that they should be adequately compensated, I feel that the method chosen by this bill is not the solution to the problem. If the General Assembly were in session at the present time, I would ask that it recall the bill in order to correct some of its objectionable features. Because the Assembly is in recess, however, I am compelled to disapprove the bill in its present form.

GEORGE M. LEADER

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No. 2

AN ACT

Providing for the use or disposal of land given to or acquired by a township for certain designated purposes.

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

Section 1. In any case where land has been given to a township or where land has been acquired by a township to be used for a certain designated purpose, and a period of one hundred years or more has passed without the land having been used for the purpose designated, if the township commissioners or supervisors determine that it is not possible or not desirable for the best interests of the township to use the land for the purpose designated, such land may be used for other township purposes or sold, leased or otherwise disposed of: Provided, That notice of such other use shall be given by advertisement in at least two newspapers of general circulation in the county in which the land is located if so many are published or circulated therein once a week for two consecutive weeks. All moneys derived from the use, sale or lease of such land shall be paid into the general township fund.

Section 2. This act shall take effect immediately.

July 1, 1955.

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

I return herewith, without my approval, House Bill No. 704, Printer's No. 446, entitled "An act providing for the use or disposal of land given to or acquired by a township for certain designated purposes."

This bill would authorize a township which has acquired land subject to a requirement that it be used for a designated purpose and a period of one hundred years has elapsed, to disregard the requirement, and to sell the land and place the proceeds in its treasury.

We appreciate the desire of local authorities to put vacant lands to use and to increase their taxable property, but we doubt if the far-

reaching possibilities and implications of this bill have been fully considered.

The law provides a method of disposing of lands impressed with a trust or under a cloud so far as title is concerned, and the law has also provided a method of applying the cy pres doctrine with regard to charitable trusts.

Cases such as the Glatfelter Trust Deed Case, 372 Pa. 503 (1953), and the cases of Loechel, Appellant, v. Columbia Borough School District, 369 Pa. 132 (1952), and Abel et al. v. Girard Trust Co. et al., 73 A. 2d 682 (1950), illustrate the legal and factual problems involved. However, these are questions to be studied and answered by the courts after hearing all the facts rather than the Legislature.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 3

AN ACT

Amending the act of June one, one thousand nine hundred forty-five (Pamphlet Laws 1340), entitled "An act relating to the financial responsibility of operators and owners of motor vehicles; and to make uniform the law with reference thereto; requiring owners and operators in certain cases to furnish proof of financial responsibility; providing for the suspension of operator's licenses and motor vehicle registration certificates in certain cases; regulating insurance policies which may be accepted as proof of financial responsibility; imposing duties upon the Secretary of Revenue, the State Treasurer and prothonotaries; and prescribing penalties," providing that certain appeals may be taken to the court of common pleas of the county in which the aggrieved person resides, and in Allegheny County the appeals may be taken to the county court of Allegheny County.

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

Section 1. Section two, act of June one, one thousand nine hundred forty-five (Pamphlet Laws 1340), known as the "Motor Vehicle Safety Responsibility Act," is amended to read:

Section 2. Secretary to Administer Act; Appeal to Court.—

(a) The secretary shall administer and enforce the provisions of this act and may make rules and regulations necessary for its administration.

(b) Any person aggrieved by an order or act of the secretary under the provisions of sections four to eleven of this act may, within [ten] *thirty* days after notice thereof file a petition in the court of common pleas of [Dauphin County] *the county in which the aggrieved person resides other than Allegheny County and in Allegheny in the county court of Allegheny County* for a trial de novo to determine whether such order or act is lawful and reasonable. The filing of such a petition shall not suspend the order or act of the secretary, unless a stay thereof shall be allowed by a judge of said court pending final determination of the matter. The court shall summarily hear the petition and may make any appropriate order or decree.

July 1, 1955.

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

I return herewith, without my approval, Senate Bill No. 91, Printer's No. 127, entitled "An act amending the act of June one, one thousand nine hundred forty-five (Pamphlet Laws 1340), entitled 'An act relating to the financial responsibility of operators and owners of motor vehicles; and to make uniform the law with reference thereto; requiring owners and operators in certain cases to furnish proof of financial responsibility; providing for the suspension of operator's licenses and motor vehicle registration certificates in certain cases; regulating insurance policies which may be accepted as proof of financial responsibility; imposing duties upon the Secretary of Revenue, the State Treasurer and prothonotaries; and prescribing penalties; providing that certain appeals may be taken to the court of common pleas of the county in which the aggrieved person resides, and in Allegheny County the appeals may be taken to the County Court of Allegheny County.'"

This bill would amend subsection (b) of Section 2 of the "Motor Vehicle Safety Responsibility Act" of June one, one thousand nine hundred forty-five, Pamphlet Laws 1340, by providing that any person aggrieved by an order or act of the Secretary of Revenue might file in the court of common pleas of the county in which the aggrieved resides, a petition to determine whether such order or act is lawful or reasonable. Subsection (b) of Section 2 of the act has heretofore required that such petitions be filed in the Court of Common Pleas of Dauphin County.

Section 5 of the Motor Vehicle Safety Responsibility Act authorizes the Secretary of Revenue to determine the amount of security which, in his judgment, shall be sufficient to satisfy any judgment that may be recovered against an operator or owner for damages resulting from an accident; and Section 34 authorizes him to issue a certificate of self-insurance when he is satisfied that a person is possessed of ability to pay judgments obtained against the latter.

Section 5 also provides that the requirement of security shall not apply to an operator or owner if the liability of such operator or owner for damages resulting from an accident is, in the judgment of the Secretary, covered by any other form of liability, insurance policy or bond. The interpretation and enforcement of these requirements may result in different conclusions, if petitions for review may be entertained by any court of common pleas.

The efficient administration of the Motor Vehicle Safety Responsibility Act requires uniformity which can be more certainly obtained if the legality and reasonableness of an order or act of the Secretary is reviewed and modified or affirmed by a single court of common pleas. If the legality of the order or act of the Secretary may be challenged in any one of the courts of common pleas of this Commonwealth, diversity in rulings is very probable and will result in a multiplicity of varying decisions and necessitate numerous appeals to the appellate courts.

In my opinion, the administration of the law would be more efficient, more uniform and more economical if the jurisdiction to hear

these appeals is retained in the Court of Common Pleas of Dauphin County.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 4

AN ACT

Amending the act of May twenty-eight, one thousand nine hundred fifteen (Pamphlet Laws 596), entitled "An act requiring cities of the second class to establish a pension fund for employes of said cities, and regulating the administration and the payment of such pensions," further regulating eligibility for pension.

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

Section 1. Subsection (a) of section four, act of May twenty-eight, one thousand nine hundred fifteen (Pamphlet Laws 596), entitled "An act requiring cities of the second class to establish a pension fund for employes of said cities, and regulating the administration and the payment of such pensions," amended July nineteen, one thousand nine hundred fifty-one (Pamphlet Laws 1091), is amended to read:

Section 4. (a) During the lifetime of the said person, he or she shall be entitled to receive a pension from the fund set aside for the purpose, fifty per centum of the amount which would constitute the average rate of pay at which he or she was employed during the last five years of his or her employment by the said city. Said pension shall be paid in monthly payments: Provided, That if any pension be granted to a person who has not been a contributor to the pension fund as herein provided, during a period of twenty years, such person shall be required to pay unto the board of pensions monthly an amount equal to such amount as he or she would have been required to contribute had he or she contributed during such period as required by this act, until such time as his or her contribution shall have extended during a period of twenty years. Should any person *resign or* be dismissed, for reasons other than misconduct, after having served as an employe for fifteen years or more but less than twenty years, such employe shall have the right to elect to keep in the fund all contributions heretofore made to the fund, and to continue making monthly payments to such fund in an amount equal to the amount last due and paid monthly while an employe. When such payments continue until the former employe has contributed to the fund for a total of at least twenty years, or until reaching the age of retirement, [which-ever is the longer,] such person shall be entitled to receive a pension proportional to the pension which would have been received had the employe completed twenty years of service prior to *resignation or* dismissal, such proportion to be computed on the ratio which the employe's actual time of service in months bears to twenty years. Should any person so employed, after twenty years of service, be dismissed, voluntarily retire, or be in any manner deprived of his or her position or employment before attaining the age fixed for retire-

ment by this act, upon continuing a monthly payment to the fund equal to the last amount due and paid monthly while in active service, said person shall be entitled to the pension above mentioned, notwithstanding he or she has not attained the age for retirement at the time of his or her separation from the service of such city; but said pension shall not commence until he or she has attained such age: Provided, That any employe, who has heretofore or shall hereafter be dismissed, voluntarily retire or be in any manner deprived of his or her position or employment, and who has been in the service of the city for a period of twenty-five (25) years or more, and who has made payments into the pension fund for a period of twenty (20) years or more, and who has reached the age of fifty (50) years shall, upon application to the board of pensions, receive the pension or compensation fixed by this act, during the remainder of his or her life. Should any employe, however, become totally and permanently disabled after fifteen years of service, he or she shall be entitled to the said pension: Provided, That if any employe who has served less than fifteen years becomes totally and permanently disabled by reason of injury sustained in the actual performance of duty, such employe shall be entitled to the said pension. Proof of total and permanent disability shall consist of the sworn statement of three practicing physicians, designated by the board, that the employe is in a permanent condition of health which would totally disable him or her from performing the duties of his or her position or office. Once a year the board of pensions may require a disability pensioner to undergo a medical examination by three physicians appointed by the board, and should such physicians thereupon report and certify to the board that such beneficiary is no longer incapacitated and should the pension board concur in such report the pension to such beneficiary shall be discontinued.

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July 29, 1955.

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

I return herewith, without my approval, House Bill No. 358, Printer's No. 82, entitled "An Act amending the act of May twenty-eight, one thousand nine hundred fifteen (Pamphlet Laws 596), entitled 'An act requiring cities of the second class to establish a pension fund for employes of said cities, and regulating the administration and the payment of such pensions,' further regulating eligibility for pension."

One of the chief prerequisites to any pension system is security to the employe. Another, and equally important, is an inducement for the employe to stay in service in order that the employer may have the advantage of his or her advanced experience. This amendment negates both of those purposes and permits an employe to resign and take advantage of a pension without full length of service to the employer.

For the foregoing reasons, I find it necessary to return this bill without my approval.

GEORGE M. LEADER



No. 5

AN ACT

Amending the act of July two, one thousand nine hundred thirty-seven (Pamphlet Laws 2821), entitled "An act to regulate the sale, and advertising for sale, of goods, wares and merchandise purporting to be an insurance, bankruptcy, mortgage, insolvent, assignees, receivers, trustees, removal, or closing-out sale, or sale of goods damaged by fire, smoke, or water, in cities and certain boroughs of this Commonwealth; and to prevent fraudulent practices in connection therewith, and providing penalties for the violation thereof, and for the imposition of license fees for permission to conduct the same," making the provisions of the act effective in municipalities and townships; further regulating statements of inventories, and requiring additional information from applicants for licenses.

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

Section 1. The title and sections one and two, act of July two, one thousand nine hundred thirty-seven (Pamphlet Laws 2821), entitled "An act to regulate the sale, and advertising for sale, of goods, wares, and merchandise purporting to be an insurance, bankruptcy, mortgage, insolvent, assignees, receivers, trustees, removal, or closing-out sale, or sale of goods damaged by fire, smoke, or water, in cities and certain boroughs of this Commonwealth; and to prevent fraudulent practices in connection therewith, and providing penalties for the violation thereof, and for the imposition of license fees for permission to conduct the same," are amended to read:

AN ACT

To regulate the sale, and advertising for sale, of goods, wares, and merchandise purporting to be an insurance, bankruptcy, mortgage, insolvent, assignees, receivers, trustees, removal, or closing-out sale, or sale of goods damaged by fire, smoke, or water, in [cities and certain boroughs of this Commonwealth] *municipalities and townships*; and to prevent fraudulent practices in connection therewith, and providing penalties for the violation thereof, and for the imposition of license fees for permission to conduct the same.

Section 1. Be it enacted, &c., That from and after the first day of July, one thousand nine hundred thirty-seven, it shall be unlawful for any person, partnership, association, or corporation, in [the cities] *municipalities or townships* of this Commonwealth, [and in boroughs having a population of more than two thousand five hundred inhabitants] to advertise or hold out by any means that any sale of goods, wares, and merchandise is an insurance, bankruptcy, mortgage, insolvent, assignees, receivers, trustees, removal, or closing-out \*sale, or a sale of goods damaged by fire, smoke, or water, unless a license is first obtained to conduct such sale from the treasurer of the city, or borough, or from the council of the town, or board of commissioners or board of supervisors of the township in which it is to be held.

Section 2. Upon application for such license, the applicant shall make a full disclosure, under oath, of the following information: The true name of the owner of the goods to be offered for sale, the name of the operator of the sale if a person other than the true owner, a full

\* "sale" omitted in original.

and complete, *detailed and itemized*, inventory of the quantity, kind, *brand name* and character of the goods to be offered for sale, *and the source from which the goods, wares and merchandise were secured, together with the names and addresses of the last previous owners thereof*, which shall be prepared in the following manner: First, a listing of all goods which have been in stock for a period of fifteen days or longer prior to the application for the license; Second, a listing of all goods received in stock within the fifteen days immediately preceding the application for the license; Third, a listing of all goods which have been ordered and will be placed in stock during the pendency of the sale, the method by which the applicant for the license or the true owner of the goods, if a different person, acquired title to the same, and the reason for the urgent and expeditious disposal thereof. [The said treasurer may require any further information necessary to inform him as to whether such license should be granted, and if any defect appears in the title to the goods, or any false representation is made in such application, the said treasurer may refuse the license.] *Upon receipt of the application, the treasurer of any city, or borough, the council of the town, or board of commissioners or board of supervisors of the township, may, in his or their discretion, make or cause to be made an examination, audit or investigation of the applicant and all of the facts contained in said application and inventory in relation to the proposed sale. A license shall be denied or refused if any defect appears in the title to the goods or wares represented, or any false representation is made in such application or inventory, or if any one or more of the following facts or circumstances are found to exist:*

(1) *That the inventory contains goods, wares or merchandise not purchased by the applicant for resale on bona fide orders without cancellation privileges;*

(2) *That the inventory contains goods, wares or merchandise purchased by the applicant on consignment;*

(3) *That the applicant, either directly or indirectly and within one year prior to the date of the filing of the application, has conducted a sale in connection with which he advertised or represented that the sale was an insurance, bankruptcy, mortgage, insolvent, assignees, receivers, trustees, removal or closing-out sale, or sale of goods \*damaged by fire, smoke or water;*

(4) *That the applicant has, heretofore, been convicted of a violation of this act;*

(5) *That the goods, wares or merchandise as described in the inventory was transferred or assigned to the applicant prior to the date of the filing of the application, and that said transfer or assignment was not made for a valuable and adequate consideration;*

(6) *That the inventory contains goods, wares or merchandise purchased by the applicant or added to his stock in contemplation of such sale, and for the purpose of selling the same at such sale. For this purpose any unusual purchase or additions to the stock of such goods, wares and merchandise, made within sixty days prior to the date of the filing of such application, shall be presumptive evidence that such purchase or additions were made in contemplation of such sale and for the purpose of selling the same at such sale;*

\* "damages" in original.

(7) That there is no urgent reason for the expeditious disposal of such wares, goods and merchandise.

Section 2. The act is amended by adding, after section two, three new sections to read:

*Section 2.1. After a license has been granted and it is established that the licensee has violated any provisions of this act the license shall be revoked immediately.*

*Section 2.2. No merchandise shall become the subject of any license pursuant to this act, if it has not been listed in the application for the license as goods, wares or merchandise in stock or in transit.*

*Section 2.3. No merchandise shall become the subject of any sale licensed pursuant to this act, if it has previously been the subject of such sale.*

Section 3. Section four of the act, amended April fifteen, one thousand nine hundred forty-three (Pamphlet Laws 52), is amended to read:

Section 4. Any person conducting or being responsible for any sale, as set forth in section one [hereof] *as herein amended*, without first having obtained the license, or any person making or being responsible for any misrepresentation in connection with the goods so offered for sale or sold, or continuing the same business at the same location after the expiration of a license issued for conducting a removal or closing-out sale, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than one hundred dollars (\$100), or to imprisonment for a term of not exceeding thirty days. The right to appeal from such conviction shall exist as in other cases of summary convictions.

Section 4. Section five of the act is amended to read:

Section 5. Any license so granted, as aforesaid, shall be good for no more than a period of [ninety days, and shall not be renewable,] *thirty consecutive calendar days (Sundays and legal holidays excluded), and may be renewed for a period not exceeding thirty consecutive calendar days (Sundays and legal holidays excluded): Provided, That a revised inventory is filed showing the items listed on the original inventory remaining unsold and that no goods, wares or merchandise not included in the original inventory is in stock, nor shall any other such license be granted to the same person within the same [city or borough] municipality or township for a period of one year succeeding the expiration of a previous license. The treasurer of the city, or borough, or the council of the town, or board of \*commissioners or board of supervisors of the township shall receive from the applicant for such license, upon the granting thereof or the renewal thereof, a license fee which shall be twenty-five dollars (\$25).*

July 29, 1955.

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

I return herewith, without my approval, House Bill No. 866, Printer's No. 512, entitled "An Act amending the act of July two,

\* \* "commissions" in original.

one thousand nine hundred thirty-seven (Pamphlet Laws 2821), entitled 'An act to regulate the sale, and advertising for sale, of goods, wares and merchandise purporting to be an insurance, bankruptcy, mortgage, insolvent, assignees, receivers, trustees, removal, or closing-out sale, or sale of goods damaged by fire, smoke, or water, in cities and certain boroughs of this Commonwealth; and to prevent fraudulent practices in connection therewith, and providing penalties for the violation thereof, and for the imposition of license fees for permission to conduct the same,' making the provisions of the act effective in municipalities and townships; further regulating statements of inventories, and requiring additional information from applicants for licenses.'

This bill is intended to make more stringent the laws of this Commonwealth regulating sales of merchandise made necessary by insolvency, damage by fire, the closing-out of a retail business and by other emergency conditions. It is my opinion that the amendments to the Act of July two, one thousand nine hundred thirty-seven (Pamphlet Laws 2821), as contained in this House Bill No. 866, are unconstitutional both with respect to the Constitution of the Commonwealth of Pennsylvania and to the Constitution of the United States. These proposed amendments violate the Constitution of this Commonwealth by making an illegal delegation of legislative authority to the officers of the various municipalities and political subdivisions which are charged with the administration of the provisions of this bill. It further violates both the Constitution of this Commonwealth and the Constitution of the United States by providing for the taking of private property without due process of law.

This bill would amend Section 2 of the Act of July two, one thousand nine hundred thirty-seven, supra, by granting broad indefinite powers to officers of municipalities and political subdivisions in the issuance or withholding of licenses for the conduct of sales. In my opinion these powers are so indefinite as to constitute an illegal delegation of legislative authority. For example, a license may be withheld if in the opinion of the enforcement officers "there is no urgent reason for the expeditious disposal of such wares, goods and merchandise." This provision places an unlimited discretion in such officers to prevent a sale which discretion is not, in any way, circumscribed by clear and reasonable standards which must be followed.

The bill also provides for the withholding of a license if the applicant has added to his stock inventory in contemplation of the sale. In this regard, the bill provides that "any unusual purchase or additions to the stock of such goods, wares and merchandise" made within sixty (60) days prior to the filing of the application shall be presumptive evidence that these goods were added in contemplation of the sale. There are no definite standards to guide the enforcement officers in determining what shall constitute "any unusual purchase or additions." This grant of power without definite standards in my opinion also constitutes an illegal delegation of legislative authority.

This bill in its operation could constitute the taking of property without due process of law both substantively and procedurally. For example, the bill provides that the enforcement officers may withhold the granting of a license if they find that the inventory contains goods, wares or merchandise purchased by the applicant on consignment. There is nowhere contained in the bill a definition of the word "con-

signment." It is recognized that a consignee under the terms of a consignment contract may be required to accept title to or otherwise dispose of merchandise damaged by smoke, fire or water while in the consignee's possession. This bill would enable a municipality or other political subdivision to effectually prohibit a consignee from salvaging his losses in the only manner possible under his consignment contract. Such action could very well constitute a substantive deprivation of property without due process of law.

The bill also provides that a license may be withheld if the applicant has been heretofore convicted of a violation of this act. The application of this provision could constitute a substantive deprivation of property without due process of law. A person convicted of a violation of this act, the same as any other citizen, might undergo circumstances requiring a resort to a sale of merchandise at reduction. The deprivation of such a right could constitute the taking of his property without due process of law.

The provision in this bill absolutely limiting such sales to one year also appears to be objectionable on due process grounds for the reason that a person may be required by circumstances beyond his control to conduct more than one such sale within a period of one year if he is to salvage his losses.

Finally, this bill provides for the determination of judicial questions without a hearing and without a right of appeal in violation of procedural due process of law. It provides for the revocation of a license in the case of a violation of any of the provisions of this act but does not provide for a judicial forum in which to have such questions of violation determined. Furthermore, it requires the enforcement officers to make many findings which are judicial in nature without a right of appeal. Under the present law an applicant can resort to mandamus. It is doubtful that he would have such a right under the provisions of this bill in view of the discretionary nature of the powers granted hereunder to the enforcement officers.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 6

AN ACT

Amending the act of May two, one thousand nine hundred twenty-nine (Pamphlet Laws 1278), entitled "An act relating to counties of the second, third, fourth, fifth, sixth, seventh and eighth classes; and revising, amending and consolidating the laws relating thereto," permitting district attorneys to hold solicitorships.

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

Section 1. The last paragraph of section two hundred forty-six, act of May two, one thousand nine hundred twenty-nine (Pamphlet Laws 1278), known as "The General County Law," amended June twenty, one thousand nine hundred thirty-nine (Pamphlet Laws 464), is amended to read:

Section 246. Qualifications; Eligibility; Compensation.—

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No district attorney shall be eligible to a seat in the Legislature, or to any other office under the laws and Constitution of the State, excepting an office or commission in the militia of the State, during his continuance in office; *Provided, That in seventh and eighth class counties he shall be eligible to hold any solicitorship, except a solicitorship for the officer or body that passes on his accounts.*

July 29, 1955.

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

I return herewith, without my approval, House Bill No. 908, Printer's No. 306, entitled "An act amending the act of May two, one thousand nine hundred twenty-nine (Pamphlet Laws 1278), entitled 'An act relating to counties of the second, third, fourth, fifth, sixth, seventh and eighth classes; and revising, amending and consolidating the laws relating thereto,' permitting district attorneys to hold solicitorships."

This bill proposes to allow district attorneys to act as solicitors. Presumably such provision would permit him to act as solicitor for political subdivisions and officers thereof. Such an arrangement could only lead to incompatibilities, since he is frequently required to enforce laws directed against certain officers or political subdivisions. For example, district attorneys are required to abate pollution of streams. It is possible to have a situation where a municipality was unlawfully polluting a stream and, if the district attorney was also solicitor for the municipality it would be impossible for him to discharge the obligations of his office.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 7

AN ACT

Amending the act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled "An act for the protection of the public safety; regulating the use of highways, and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances, and legal claims; registration of certain vehicles and licensing the operators thereof, upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers, providing that records are admissible as evidence; imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds," providing for special permits for the operation of vehicles with more than one trailer attached thereto, and prescribing penalties.

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

Section 1. The act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), known as "The Vehicle Code," is amended by adding, after section 719.1 thereof, a new section to read:

*Section 719.2. Special Permits Moving More Than One Vehicle.—The fee for a special permit to operate upon the highways motor vehicles having thereto attached or drawing more than one other vehicle, the operation of which is prohibited under the provisions of clause (1) of subsection (c) of section nine hundred two of this act, shall be five (\$5) dollars for each round trip between another state and a point in Pennsylvania.*

Section 2. The act is amended by adding, after section 905.1 thereof, a new section to read:

*Section 905.2. Permits for Moving More Than One Vehicle.—The Secretary of Highways may, upon application in writing accompanied by the fee provided in section 719.2 of this act, issue a special permit authorizing the operation upon the highways motor vehicles drawing or having thereto attached more than one vehicle, the operation of which is prohibited under the provisions of clause (1) of subsection (c) of section nine hundred two of this act, between another state and a point in Pennsylvania for the purpose of painting or servicing the vehicle. The permit shall be carried in the vehicle operated thereunder and shall be open to inspection to any peace officer or employe of the Department of Highways.*

*Penalty.—Any person operating upon a highway a motor vehicle drawing or having thereto attached more than one other vehicle, the operation of which is otherwise prohibited by this act, without first having obtained a permit to do so as herein provided, shall, upon summary conviction, be sentenced to pay a fine of ten (\$10) dollars and costs of prosecution and, in default of the payment thereof, shall undergo imprisonment for not more than five (5) days.*

July 29, 1955.

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

I return herewith, without my approval, House Bill No. 1312, Printer's No. 392, entitled "An Act amending the act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled 'An act for the protection of the public safety; regulating the use of highways, and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances and legal claims; registration of certain vehicles and licensing the operators thereof, upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are

admissible as evidence; imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds, providing for special permits for the operation of vehicles with more than one trailer attached thereto, and prescribing penalties.”

This bill would amend The Vehicle Code of May one, one thousand nine hundred twenty-nine, by adding a provision authorizing the Secretary of Highways upon application in writing, accompanied by the prescribed fee of \$5.00, to issue a special permit authorizing the operation upon the highways of motor vehicles drawing *more than one vehicle* between another state and a point in Pennsylvania for the purpose of painting or servicing the vehicle.

The Vehicle Code, as originally enacted, permitted the movement of a truck tractor, semi-trailer and a full trailer as a unit, provided that the combination did not exceed 70 feet in length. This provision, however, was amended so as to permit the motor vehicle to draw not more than one other vehicle. This change was enacted as a precaution against accidents in the operation of several units together and in the interests of safety.

This bill would change the law so as to permit a motor vehicle to draw *more than one* other vehicle.

The number of trucks operating on the highways of the Commonwealth has been steadily and rapidly increasing, as has also the number of accidents, resulting in destruction of trucks and their cargoes, as well as injury and loss of life to drivers and others. Statistics of such accidents furnish a compelling reason why this bill should not be approved.

Further, the bill would permit a motor vehicle to draw *more than one* other vehicle. The bill contains no limit as to the number of such vehicles to be drawn. In this respect the bill is fatally defective.

Because of the adjournment of the Senate it was not possible to recall this bill for amendment.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 8

AN ACT

Amending the act of May two, one thousand nine hundred twenty-nine (Pamphlet Laws 1278), entitled “An act relating to counties of the second, third, fourth, fifth, sixth, seventh and eighth classes; and revising, amending and consolidating the laws relating thereto,” authorizing the board of county commissioners to make an appropriation for controlling and eradicating elm beetles.

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

Section 1. The act of May two, one thousand nine hundred twenty-nine (Pamphlet Laws 1278), known as “The General County Law,” is amended, by adding after section 446, a new section to read:



*Section 446.1. Eradication of Elm Beetles.—The board of county commissioners is authorized to appropriate up to two thousand dollars (\$2000) a year for the purpose of controlling and eradicating elm beetles in the manner found to be most effective.*

August 9, 1955.

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

I return herewith, without my approval, Senate Bill No. 211, Printer's No. 41, entitled "An Act amending the act of May two, one thousand nine hundred twenty-nine (Pamphlet Laws 1278), entitled 'An act relating to counties of the second, third, fourth, fifth, sixth, seventh and eighth classes; and revising, amending and consolidating the laws relating thereto,' authorizing the board of county commissioners to make an appropriation for controlling and eradicating elm beetles."

This bill proposes to amend the Act of May two, one thousand nine hundred twenty-nine (Pamphlet Laws 1278), as amended, known as the General County Law, by adding a new section 446.1 authorizing county commissioners to appropriate up to two thousand dollars (\$2000) a year "for the purpose of controlling and eradicating elm beetles in the manner found to be most effective."

Since Section 446 of the law as it now stands authorizes county commissioners to appropriate county funds without limitation for controlling and suppressing, inter alia, "dangerous plant diseases and insect pests," and since the elm beetle falls in the dangerous insect pest category, the effect of the amendment is to place a ceiling and limitation upon the amount authorized to be appropriated for elm beetle eradication where no such ceiling or limitation now exists. It is the opinion of the Department of Agriculture that this new ceiling is so low that it would preclude any effective large-scale program of elm beetle eradication by the counties.

In addition, the amendment would remove control of the county elm beetle eradication programs from the Department of Agriculture. Under the present act such programs are to be conducted "in cooperation with the Department of Agriculture" and county commissioners are authorized to enter into agreements with the Department concerning terms, rules, regulations and practices for conducting this work.

Under the new amendment no cooperative action with the Department would be required, nor would the Department have control through agreements over the terms, rules, regulations and practices. On the contrary, the only limitation upon the county commissioners would be that the work be done "in the manner found to be most effective."

The Department of Agriculture and the Department of Justice recommend that the bill be vetoed.

For these reasons, the bill is not approved.

GEORGE M. LEADER

AN ACT

Authorizing townships of the first class in certain cases to convey to a volunteer fire company or association the townships' interests in real property upon approval of the court of common pleas of the county.

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

Section 1. In any case where land and improvements thereon in a township of the first class have been conveyed to a trustee, in trust, for the use of a volunteer fire company or association until the time when the township should take over and assume the facilities for and duty of fire protection for the township, and in such event, to be conveyed to the township, if the township commissioners determine that it is for the best interest of the township, they may, upon approval of the court of common pleas after a public hearing, convey all right, title and interest of the township in such real property to the volunteer fire company or association. Notice of the public hearing shall be given by advertisement in at least two newspapers of general circulation in the county in which the township is located, if so many are published or circulated therein, once a week for two consecutive weeks prior to the hearing.

Section 2. This act shall take effect immediately.

October 22, 1955.

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

I return herewith, without my approval, House Bill No. 1676, Printer's No. 889, entitled "An Act authorizing townships of the first class in certain cases to convey to a volunteer fire company or association the townships' interest in real property upon approval of the court of common pleas of the county."

This bill authorizes townships of the first class, upon approval of the court of common pleas, after a public hearing to convey the title of real property to the volunteer fire company where land and improvements have been conveyed to a trustee in trust for the use of a volunteer fire company until the time when the township should take over the responsibility of fire protection.

The courts have already been authorized by law to terminate trusts and we believe no useful purpose is to be served by the approval of this bill which is of a special nature and might imply limitations on the courts in other cases of a similar nature.

See GLATFELTER TRUST DEED CASE, 372 Pa. 503 (1953), and the cases of LOECHHEL, Appellant v. COLUMBIA SCHOOL DISTRICT, 369 Pa. 132 (1952), and ABEL et al. v. GIRARD TRUST CO. et al., 73 A. 2d 682 (1950).

For these reasons, the bill is not approved.

GEORGE M. LEADER

AN ACT

Amending the act of March twenty-six, one thousand nine hundred thirty-one (Pamphlet Laws 8), entitled "An act to fix the fees to be allowed the district attorney in counties of the second class," providing a fee for services in cases removed to any appellate court of this Commonwealth or to any court of the United States.

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

Section 1. Section one, act of March twenty-six, one thousand nine hundred thirty-one (Pamphlet Laws 8), entitled "An act to fix the fees to be allowed the district attorney in counties of the second class," amended May eighteen, one thousand nine hundred forty-five (Pamphlet Laws 726), is amended to read:

Section 1. Be it enacted, &c., That in all counties of the second class the fees to be allowed the district attorney shall be as follows:

For drawing bill of indictment and prosecuting the same, for every homicide, one hundred fifty dollars, and twenty-five dollars additional for every day of trial exceeding one day.

For every such bill returned ignoramus, twenty-five dollars.

For drawing bill of indictment and prosecuting same, for every offense triable only in the court of oyer and terminer and general jail delivery, except homicide, twenty-five dollars, and ten dollars additional for every day of trial exceeding one day.

For every such bill returned ignoramus, fifteen dollars.

For drawing bill of indictment and prosecuting the same, for every offense triable in the court of quarter sessions of the peace, twenty-five dollars, and ten dollars additional for every day of trial exceeding one day.

For every such bill returned ignoramus, fifteen dollars.

For every such case settled with leave of court, fifteen dollars.

For every case where a nolle prosequi is entered, fifteen dollars.

For every surety of the peace case, fifteen dollars.

For obtaining judgment on forfeited recognizance, twenty-five dollars.

For every homicide case where insanity is pleaded at arraignment and a special jury called to try said issue, one hundred dollars.

*For the disposition of every case in which the record shall have been removed by writ of certiorari, or otherwise, to any appellate court of this Commonwealth or to any court of the United States for review, two hundred dollars.*

Section 2. This act shall take effect immediately.

October 22, 1955.

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

I return herewith, without my approval, House Bill No. 386, Printer's No. 1033, entitled "An Act amending the act of March twenty-six, one thousand nine hundred thirty-one (Pamphlet Laws 8), entitled 'An act to fix the fees to be allowed the district attorney in counties of the second class,' providing a fee for services in cases

removed to any appellate court of this Commonwealth or to any court of the United States.”

This bill provides a fee of \$200.00 to be allowed the district attorney in counties of the second class for the disposition of every case in which the record shall have been removed by writ of certiorari or otherwise to any appellate court of this Commonwealth or to any court of the United States for review. This would be in addition to all the fees which are already provided for in the Act of March twenty-six, one thousand nine hundred thirty-one (Pamphlet Laws 8), which this bill would amend.

The proposed fee of \$200.00 is out of all proportion to the other fees and would place a burden upon all persons taking an appeal. Such a financial burden would operate as a denial of justice and would close the appellate courts to those who felt they must seek justice in the appellate courts.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 11

AN ACT

Amending the act of March ten, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled “An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto,” authorizing joint school committees to manage designated functions of joint schools or departments.

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

Section 1. Section one thousand seven hundred seven, act of March ten, one thousand nine hundred forty-nine (Pamphlet Laws 30), known as the “Public School Code of 1949,” amended July twenty-seven, one thousand nine hundred fifty-three (Pamphlet Laws 29), is amended to read:

Section 1707. Joint School Committee or Committees.—(a) The boards of school directors, establishing any joint school or department, may supervise and direct its affairs, jointly, in the same manner as the affairs of individual school districts are managed; or they may agree that the affairs of such joint school or department may be managed by a joint school committee or that designated functions may be managed by separate joint school committees within the limits of the budget adopted by the joint board. Where such management is delegated to a joint school committee or joint school committees, every school board establishing joint schools or departments shall, at the annual meeting during the month of December, select one or more of its members who, with the members chosen in like manner in the other districts, shall constitute the joint school committee or joint school committees. [This] (b) Where one joint school committee is established, the committee shall have all the powers and duties and be subject to all the liabilities with reference to the supervision, maintenance and regulation of such joint schools or departments as are now

conferred or imposed by law upon school boards generally. (c) *Where more than one joint school committee is established, each committee shall have all the powers and duties and be subject to all the liabilities with reference to the supervision, maintenance and regulation of the particular function or functions of such joint schools or departments delegated to it, as are now conferred or imposed by law upon school boards generally.* The affirmative vote of a majority of all the members of [this] *any* committee, duly recorded, showing how each member voted, shall be required in order to take action upon those subjects enumerated in section five hundred eight of this act. Failure to comply with the provisions of this act shall render void and unenforceable the acts of [the] *any* joint school committee with reference thereto. The joint board and the joint school committee *or joint school committees*, if authorized, shall organize annually during the month of December by electing a president and secretary, and the expenses of maintaining the joint school or department shall be paid by warrant drawn on the joint board treasurer by the president and secretary of the joint board or the joint school committee *directing the affairs of the joint school or department generally or by the president and secretary of the joint school committee directing the particular function involved.*

Section 2. This act shall take effect immediately.

December 15, 1955.

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

I return herewith, without my approval, Senate Bill No. 723, Printer's No. 266, entitled "An act amending the act of March ten, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled 'An act relating to the public school system including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto, authorizing joint school committees to manage designated functions of joint schools or departments.'"

This bill would amend Section 1707 of the School Code of 1949, the act of March ten, one thousand nine hundred forty-nine, Pamphlet Laws 30, by further providing that the management of a joint school may be done by several joint committees instead of one such committee to perform the functions specifically delegated to it.

The addition of this provision could divest the existing joint committee of control over the several various functions and place such control in one of several joint committees. This would result in a complete lack of uniformity as to the circumstances under which certain functions would be delegated.

The fundamental policy of the Constitution of Pennsylvania and the Public School system is to obtain as much uniformity as is feasible for the government and conduct of the schools to obtain education for the children.

It might also prove to be an opening wedge to demands of some school directors to create separate committees because of an existing grievance or disagreement.

In such delegation of functions there is always the circumference of overlapping of jurisdiction without a clear line of demarcation on

the fringe activities which could only result in confusion and defeat the object to be attained.

I do not believe that the amendment proposed by this bill affords a solution to benefit the existing system. Furthermore, the possible abuses that may result may far outweigh any advantage that may be gained by the amendment proposed in this bill.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 12

AN ACT

Amending the act of May twenty-five, one thousand nine hundred fifty-one (Pamphlet Laws 415), entitled "An act relating to habeas corpus; conferring jurisdiction upon the judges of the courts of common pleas; prescribing venue; defining procedure in all cases; authorizing service to be made upon persons anywhere in the Commonwealth; providing for the imposition of costs; allowing appeals; specifying the appellate court to which appeals may be taken; and repealing inconsistent legislation, including that conferring jurisdiction on courts of quarter sessions," extending jurisdiction as to habeas corpus to courts of quarter sessions.

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

Section 1. Section one, act of May twenty-five, one thousand nine hundred fifty-one (Pamphlet Laws 415), entitled "An act relating to habeas corpus; conferring jurisdiction upon the judges of the courts of common pleas; prescribing venue; defining procedure in all cases; authorizing service to be made upon persons anywhere in the Commonwealth; providing for the imposition of costs; allowing appeals; specifying the appellate court to which appeals may be taken; and repealing inconsistent legislation, including that conferring jurisdiction on courts of quarter sessions," is amended to read:

Section 1. Any judge of a court of common pleas, or a court of quarter sessions, within this Commonwealth, shall have jurisdiction, at any time, to issue a writ of habeas corpus upon application by, or on behalf of, any person (hereafter called the relator) alleged to be unlawfully imprisoned or detained in any penitentiary, prison, reformatory, house of detention, mental institution or other place, (a) within the judge's judicial district, or (b) outside of his judicial district, if the relator was committed by action of any court of the judge's judicial district: Provided, That when relator's detention or confinement is by virtue of sentence after conviction for a criminal offense, only a judge of the judicial district of conviction and sentencing shall exercise such jurisdiction.

Section 2. This act shall take effect immediately.

February 3, 1956.

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

I return herewith, without my approval, Senate Bill No. 480, Printer's No. 342, entitled "An act amending the act of May twenty-

five, one thousand nine hundred fifty-one (Pamphlet Laws 415), entitled 'An act relating to habeas corpus; conferring jurisdiction upon the judges of the courts of common pleas; prescribing venue; defining procedure in all cases; authorizing service to be made upon persons anywhere in the Commonwealth; providing for the imposition of costs; allowing appeals; specifying the appellate court to which appeals may be taken; and repealing inconsistent legislation, including that conferring jurisdiction on courts of quarter sessions,' extending jurisdiction as to habeas corpus to courts of quarter sessions."

This bill amends the act of May twenty-five, one thousand nine hundred fifty-one, Pamphlet Laws 415, which regulates procedure and jurisdiction in habeas corpus proceedings.

The amendatory language of the bill would extend jurisdiction in these proceedings to the courts of quarter sessions which court has jurisdiction in many matters involving crimes.

The Supreme Court of Pennsylvania, in the case of COMMONWEALTH ex rel. PAYLOR v. CLAUDY, 366 Pa. 282 (1951), at page 284, said of the writ of habeas corpus that:

"\* \* \* It is a civil remedy rather than a criminal proceeding regardless of whether the prisoner is detained under civil or criminal process, \* \* \*" (Underscoring ours.)

The Supreme Court of Pennsylvania has original jurisdiction of matters involving habeas corpus by virtue of Article V, Section 3 of the Constitution, and the Legislature conferred original jurisdiction upon the Superior Court by the Act of June twenty-four, one thousand eight hundred ninety-five, Pamphlet Laws 212. Since the writ of habeas corpus is a civil remedy and so many courts are available for making application for writs, there is no necessity to confer jurisdiction upon the court of quarter sessions, a court of criminal jurisdiction to administer this civil remedy.

If the jurisdiction of the court of quarter sessions which is ordinarily concerned with criminal matters is to be extended to include this civil remedy, corrective provisions should be inserted in this bill before it is approved. However, because of the expiration of the ten day time limitation provided in our Constitution, I have no alternative but to veto the bill and suggest that if a new bill is prepared corrective provisions be included.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 13  
AN ACT

Amending the act of August twenty-two, one thousand nine hundred fifty-three (Pamphlet Laws 1344), entitled "An act relating to marriage; and amending, revising, consolidating and changing the law relating thereto," further regulating the issuance of marriage licenses when applicants are infected with syphilis.

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

Section 1. Subsection (A) of section five of the act of August twenty-two, one thousand nine hundred fifty-three (Pamphlet Laws 1344), known as "The Marriage Law," is amended to read as follows:

Section 5. Restrictions on the Issue of Marriage License.—No license to marry shall be issued by any clerk of the orphans' court:

(A) Until there shall be in the possession of the clerk of the orphans' court a statement or statements, signed by a duly licensed physician of the Commonwealth of Pennsylvania, or any commissioned medical officer in the United States Army or Navy, or any physician of the Public Health Service of the Federal Government, that each applicant, within thirty days of the application for the marriage license, has submitted to an examination to determine the existence or nonexistence of syphilis, which examination has included a standard serological test or tests for syphilis, and that, in the opinion of the examining physician, the applicant is not infected with syphilis [or if so infected, is not in a stage of that disease which is likely to become communicable.]: *Provided, however, That if a statement of a physician duly licensed by this Commonwealth, or a physician in the United States Army or Navy, or any physician of the Public Health Service of the Federal Government, reveals that either of the applicants is infected with syphilis in a stage which is not likely to become communicable, the applicants may apply to a judge of the orphans' court, in the manner provided by section nine of this act, for permission to marry. Upon finding that it is in the best interests of the applicants and of the public that they should marry, the judge may issue an order directing the clerk of the orphans' court to issue a license to the applicants, and the said clerk shall forthwith issue to the applicants a marriage license.* The physician's statement shall be accompanied by a statement from the person in charge of the laboratory making the test, or from some other person authorized to make such statement, setting forth the name of the test, the date it was made, the exact name and address of the physician to whom a report was sent, and the exact name and address of the person whose blood was tested, but not setting forth the result of the test, and such other facts as the Department of Health may deem necessary to determine whether the applicant is infected with syphilis in a stage of that disease likely to become communicable.

February 10, 1956.

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

I return herewith, without my approval, Senate Bill No. 475, Printer's No. 468, entitled "An act amending the act of August twenty-two, one thousand nine hundred fifty-three (Pamphlet Laws 1344), entitled 'An act relating to marriage; and amending, revising, consolidating and changing the law relating thereto,' further regulating the issuance of marriage licenses when applicants are infected with syphilis."

Under existing law, the clerk of the orphans' court in the county in which the applicants apply for permission to marry, may grant a marriage license to them, if the physician's statement indicates that either of the applicants is not infected with syphilis or, if so infected with the disease, the disease is not in a stage which is not likely to become communicable. The proposed bill then would only allow the clerk of the orphans' court to issue a license as of right to the applicants who were not infected with syphilis. It would change the existing law in that where the physician's statement indicates that



either of the applicants is infected with syphilis in a stage which is not communicable, the orphans' court would then need to pass on the desirability of the applicants to marry before a license could be issued, if at all.

The Department of Health does not approve the bill because it feels that the determination of whether an applicant has syphilis in a stage not likely to become communicable is peculiarly a matter of medical competence and that present modes of treatment have so advanced that a person undergoing such treatment may become cured of the disease, notwithstanding the fact that the examination renders a positive result. Furthermore, the department feels that if enacted into law the proposed amendment would put an impediment in the path of applicants desiring to marry for a reason that it considers to be medically invalid. This impediment would, in the department's opinion, contribute to illegitimacy. These undesirable results in the department's view outweigh the possible advantage of preventing marriages in those few cases where medical diagnosis may have proved faulty.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 14

AN ACT

Amending the act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled "An act for the protection of the public safety; regulating the use of highways, and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances, and legal claims; registration of certain vehicles and licensing the operators thereof, upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are admissible as evidence; imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds," changing the requirements regarding use of different types of danger and caution signals and eliminating penalty provision.

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

Section 1. Section eight hundred twenty-four, act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), known as "The Vehicle Code," amended April twenty-five, one thousand nine hundred forty-five (Pamphlet Laws 304), and subsection (a) and penalty clause, amended August twenty-four, one thousand nine hundred fifty-one (Pamphlet Laws 1368), is amended to read:

Section 824. Danger and Caution Signals.—

(a) Every motor bus and every motor omnibus for the carriage of passengers for hire, except taxicabs, and every commercial vehicle,

or combination of vehicles, having a registered capacity gross weight of eleven thousand (11,000) pounds, or more, and every trailer, or semi-trailer, designed for the living quarters or carriage of persons, shall be equipped with [at least three (3) red flags, of dimensions not less than twelve by twelve (12 x 12) inches, and a sufficient number of flares, not less than three (3), or electric lanterns, electric flashing signals, or other signals capable of continuously producing three warning lights, each] *one of the following combinations: Three red fuses, three flares (liquid burning pot torches) and two red cloth flags, or three red electric lanterns and two red cloth flags, or three red emergency reflectors and two red cloth flags, the flares (liquid burning pot torches), red electric lanterns, red emergency reflectors or other signals, capable of continuously producing three warning lights, shall be visible from a distance of at least five hundred (500) feet for a period of at least eight (8) hours. [, or three (3) reflector type flares: Provided, however, That the]* *The provisions of this section shall not apply to vehicles within the confines of a municipality or within a business or residence district.*

*(a.1) All other motor vehicles shall be equipped with a sufficient number of red burning fusee type flares or other type flares, not less than three (3), or electric lanterns giving a red light electric flashing signals, giving a red light, or other signals, or flares, capable of continuously producing a warning light visible from a distance of at least five hundred (500) feet for a period of at least forty-five (45) minutes, or not less than three (3) red emergency reflectors. The provisions of this subsection shall not apply to vehicles within the confines of a municipality or within a business or residence district, and the equipment specified by this subsection shall be made a requirement for the official inspection provided for in section 823 of this act.*

*(a.2) Every such flare, fusee electric lantern, electric flashing signal, red emergency reflector [type flare], or other signal shall be of a type approved by the secretary, and he shall publish lists of those devices which he has approved as adequate for the purposes of this section. No fusee shall be approved, which, after burning, leaves a residue or stand-up device containing a metal spike, nail, or any object, or substance, which, if allowed, to remain upon the highway would constitute a danger or hazard.*

*(b) Whenever any such vehicle as provided in subsection (a) of this section and its lighting equipment are disabled, during the period when lighted lamps must be displayed on vehicles, or when visibility is impaired by fog, snow or other atmospheric condition and such vehicle cannot immediately be removed from the main traveled portion of a highway outside of a business or residence district, or if the lighting equipment on any such vehicle is not disabled but, due to its position upon the highway or by reason of contour or curves in such highway, it may constitute a menace to other vehicular traffic, the operator or other person in charge of such vehicle shall [cause such flares, lanterns, flashing signals, or other signals to be lighted and placed upon the highway, or reflector type flares placed upon the highway:] *immediately place on the traveled portion of the highway at the traffic side of the vehicle a lighted fusee, a lighted red electric lantern, or a red emergency reflector, if the stop is to exceed fifteen minutes, the driver shall place emergency signals as required in the following**

*manner: One (1) at a distance of approximately one hundred (100) feet in advance of such vehicle, one (1) at a distance of approximately one hundred (100) feet to the rear of the vehicle, and the third upon the highway side of the vehicle, except that, if the vehicle is transporting flammables, such vehicle shall be equipped with a sufficient number of electric flares or electric flashing signals, or [reflector type flares] red emergency reflectors, not less than three (3). Whenever any such vehicle is disabled during the period when lighted lamps are not required to be displayed on vehicles, and such vehicle cannot immediately be removed from the main traveled portion of a highway outside of a business or residence district, or whenever a vehicle is disabled upon the highway, and by reason of contours or curves in such highway it may constitute a menace to other vehicular traffic, the operator or other person in charge of such vehicle shall cause the red flags to be placed upon the highway: One (1) at a distance of approximately one hundred (100) feet [in advance of such vehicle, and one (1) at a distance of approximately one hundred (100) feet to the rear of the vehicle, and the third upon the highway side of the vehicle] from the vehicle in the center of the traffic lane occupied by such vehicle toward traffic approaching in that lane, one (1) at a distance of approximately one hundred (100) feet in the opposite direction from the vehicle in the center of the traffic lane occupied by such vehicle.*

*(b.1) Whenever all other motor vehicles as provided for in subsection (a.1) of this section and its lighting equipment are disabled, during the period when lighted lamps must be displayed on vehicles or when visibility is impaired by fog, snow or other atmospheric condition, and such vehicle cannot immediately be removed from the main traveled portion of a highway outside of a business or residence district, or if the lighting equipment on any such vehicle is not disabled but due to its position upon the highway or by reason of contours or curves in such highway, it may constitute a menace to other vehicular traffic, the operator or other person in charge of such vehicle shall cause such a fusee, flare, electric lantern, electric flashing signal, or other electrical signal, capable of continuously producing a warning light, to be placed upon the highway at a distance of approximately fifty (50) feet to the rear of the vehicle, except, if red emergency reflectors are used, the operator or other person in charge of such vehicle shall place one (1) upon the highway (50) feet to the rear of the vehicle, one (1) one hundred (100) feet to the rear of the vehicle, and one (1) one hundred fifty (150) feet to the rear of the vehicle.*

(c) No person shall at any time operate a vehicle transporting explosives as a cargo or part of a cargo upon a highway, unless it carries electric lanterns or electric flashing signals, or reflector type flares, as herein required, but such electric lanterns or electric flashing signals must be capable of producing a red light, and such reflector type flares must be in good condition capable of reflecting light of an on-coming vehicle at least five hundred (500) feet, and shall be displayed upon the highway when and as required in this section.

[Penalty.—Any owner or operator who shall fail to comply with any of the provisions of this section shall, upon summary conviction before a magistrate, be sentenced to pay a fine of twenty-five (\$25) dollars and costs of prosecution, and in default of the payment thereof, shall undergo imprisonment for not more than ten (10) days.]

Section 2. This act shall take effect May one, one thousand nine hundred fifty-six.

February 17, 1956.

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

I return herewith, without my approval, House Bill No. 756, Printer's No. 1308, entitled "An Act amending the act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled 'An act for the protection of the public safety; regulating the use of highways, and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances, and legal claims; registration of certain vehicles and licensing the operators thereof, upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are admissible as evidence; imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds,' changing the requirements regarding use of different types of danger and caution signals and eliminating penalty provision."

This bill amends Section 824 of The Vehicle Code, the Act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), which refers to danger and caution signals. It deletes the penalty clause from the section so that there is no method of enforcing the requirement of these danger and caution signals as far as motor buses, motor omnibuses and commercial vehicles are concerned.

It adds a subsection, designated (a.1), which requires all other motor vehicles to be equipped with certain flares, fusees or other signals. However, the only means of enforcing this added subsection is the provision that the equipment specified by the subsection shall be made a requirement for the official inspection provided for in other sections of the Code. This results in the subsection being unenforceable as to out-of-state motor vehicles. The enforcement provision is further weakened by the fact that it contains a condition that the subsection shall not apply to vehicles within the confines of a municipality or within a business or residence district. Having in mind the definitions of "residence district" and "business district" in The Vehicle Code, and the fact that most official inspection stations are located either in a business or a residence district, the enforcement provided for in the subsection is reduced to an impracticability if not a nullity. But weak as this enforcement provision is, it does not apply to buses, motor omnibuses and commercial vehicles.

With the increasing number of automobile accidents and the dangers arising from stalled motor vehicles along our highways, particularly during periods of foggy or inclement weather or darkness, this is a

most inopportune time to remove penalty clauses and weaken or make impossible enforcement procedures.

Records of accidents involving disabled motor vehicles where emergency warning signals were not properly placed indicate such accidents result in serious and in many instances fatal consequences, proving the necessity of warning signals and a means of enforcing the provisions requiring such signals.

The Constitution states that the Governor "shall take care that the laws be faithfully executed." I cannot expect enforcement officials to execute laws that provide no penalties.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 15

AN ACT

Amending the act of March seven, one thousand nine hundred one (Pamphlet Laws 20), entitled "An act for the government of cities of the second class," requiring reimbursement to cities of second class for costs incurred in the collection of certain fines.

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

Section 1. The act of March seven, one thousand nine hundred one (Pamphlet Laws 20), entitled "An act for the government of cities of the second class," is amended by adding, at the end of Article XVI-A, a new section to read:

*Section 12. Reimbursement of Costs.—The municipal traffic courts in cities of the second class may submit, each year, an application for reimbursement to the Secretary of Revenue, containing therein an itemized account of the additional costs incurred by the traffic court each year, in the collection of traffic violation fines from violators who originally paid the fines with checks which were returned to the traffic court marked "not sufficient funds." Upon approval of the account filed, the Secretary of Revenue shall permit the traffic court, in cities of the second class, to deduct the amount of such costs from the amount of the fines due and payable to the Department of Revenue for the year following the year of application.*

February 17, 1956.

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

I return herewith, without my approval, House Bill No. 1526, Printer's No. 602, entitled "An Act amending the act of March seven, one thousand nine hundred one (Pamphlet Laws 20), entitled 'An act for the government of cities of the second class,' requiring reimbursement to cities of second class for costs incurred in the collection of certain fines."

This bill provides for reimbursement by the Secretary of Revenue of costs incurred by the Traffic Court of Allegheny County in the collection of traffic violation fines from violators who originally pay

such fines with checks which have been returned to the traffic court marked "not sufficient funds."

It is inequitable in that it singles out the Magistrates Court of the City of Pittsburgh for special preferential treatment. Also it does not limit the amount of money which may be refunded by reasons of any particular check with respect to which collection difficulties are encountered.

I have been advised by the Secretary of Revenue that the costs which are presently collected by the Traffic Court are sufficient to cover any expenses incident to the collection of improper checks.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 16

AN ACT

Amending the act of March ten, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," further regulating the admission of beginners to the public schools.

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

Section 1. Section one thousand three hundred four, act of March ten, one thousand nine hundred forty-nine (Pamphlet Laws 30), known as the "Public School Code of 1949," amended July twenty-seven, one thousand nine hundred fifty-three (Pamphlet Laws 629), is amended to read:

Section 1304. Admission of Beginners.—The admission of beginners to the public schools shall be confined to the first two weeks of the annual school term in districts operating on an annual promotion basis, and to the first two weeks of either the first or the second semester of the school term in districts operating on a semi-annual promotion basis, *except when a good reason satisfactory to the school board is furnished for failure of an applicant to attend at such time.* Admission shall be limited to beginners who have attained the age of five years and seven months before the first day of September if they are to be admitted in the fall, and to those who have attained the age of five years and seven months before the first day of February if they are to be admitted at the beginning of the second semester. The board of school directors of any school district may admit beginners who are less than five years and seven months of age, in accordance with rules and regulations established by the State Council of Education. The board of school directors may refuse to accept or retain beginners who have not attained a mental age of five years, as determined by the county supervisor of special education or a properly certificated public school psychologist in accordance with rules and regulations established by the State Council of Education.

The term "beginners," as used in this section, shall mean any child that should enter the lowest grade of the primary school or the lowest primary class above the kindergarten level.

February 17, 1956.

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

I return herewith, without my approval, House Bill No. 1838, Printer's No. 1119, entitled "An Act amending the act of March ten, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled 'An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto,' further regulating the admission of beginners to the public schools."

This bill would allow the admission of beginners to public schools to be extended beyond the first two weeks of the annual school term or the first or second semester when a good reason satisfactory to the board is furnished for the failure to attend at such time.

The Department of Public Instruction is opposed to this bill because under the present law, in worthy cases a child who, for health reasons or some other urgent reason, cannot be entered during the first two weeks of school, can through an understanding with the school officials be placed on the roll and carried as an excused absence until such time as the health of the pupil permits his coming to school. Even under the existing law, we get many requests from parents asking for special concessions for certain children. Therefore, we can well imagine the pressure which would be placed on school boards if the proposed legislation became law. It would be bound to result in a variation of practices throughout the State which certainly would not be conducive to accurate child accounting procedures.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 17

AN ACT

Amending the act of June twenty-four, one thousand nine hundred thirty-one (Pamphlet Laws 1206), entitled "An act concerning townships of the first class; amending, revising, consolidating, and changing the law relating thereto," requiring entrance of bond in appeals from board of adjustment rulings affecting zoning regulations.

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

Section 1. Section three thousand one hundred seven, act of June twenty-four, one thousand nine hundred thirty-one (Pamphlet Laws 1206), known as "The First Class Township Code," reenacted and amended May twenty-seven, one thousand nine hundred forty-nine (Pamphlet Laws 1955), is amended to read:

Section 3107. Board of Adjustment.—Such board of township commissioners may appoint a board of adjustment, and, in the regulations and restrictions adopted pursuant to the authority of this article, may provide that said board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony

with its general purpose and intent and in accordance with general or specific rules therein contained.

The board of adjustment shall consist of three members, one of whom shall be designated to serve until the first day of January following the adoption of the zoning ordinance, one until the first day of the second January thereafter, and one until the first day of the third January thereafter. Their successors shall be appointed on the expiration of their respective terms, to serve three years. The members of the board shall be removable for cause, by the appointing authority, upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

The board of adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this article. Meetings of the board shall be held at the call of the chairman, and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman may administer oaths, and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

Appeals to the board of adjustment may be taken by any person aggrieved, or by any officer of the township affected by any decision of the administrative officer, *except that appeals which are based on a claim that a zoning ordinance is invalid shall be taken, within thirty days after such decision, directly to the court of common pleas of the county by petition, duly verified, setting forth the grounds relied upon. A copy of such petition shall be served upon the officer from whom the appeal is taken, who shall forthwith transmit to the court all the papers constituting the record upon which the action appealed from was taken. The court shall take such testimony as is necessary for the proper disposition of the appeal, and shall render such decision as may appear just and proper. Any such appeal to the court, if taken from the grant of a permit to build in conformity with the zoning ordinance, shall not be allowed unless the appellant shall file a bond to prosecute the same with effect, and to pay all costs and damages incurred by the person granted the permit by reason of delay or otherwise. Such bond shall be in such form and in such amount as the court may direct, but in no event shall the amount be less than twenty-five percentum of the cost of the construction, as set forth in the application, for the building. Any such appeal to the Board of Adjustment shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.*

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay



would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment, or by a court of common pleas of the county on application, on notice to the officer from whom the appeal is taken, and due cause shown.

The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, or by agent or by attorney.

The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article or of any ordinance adopted pursuant thereto;

(2) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance;

(3) To authorize, upon appeal, in specific cases, such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising the above mentioned powers, such board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and, to that end, shall have all the powers of the officer from whom the appeal is taken. Notice of such decision shall forthwith be given to all parties in interest.

Any person aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer of the township, may, within thirty days after such decision of the board, appeal to the court of common pleas of the county by petition, duly verified, setting forth that such decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, specifying the grounds upon which he relies.

Upon the presentation of such petition, in proper form, the court shall forthwith issue a writ of certiorari directed to the board of adjustment commanding it, within twenty days after the service thereof, to certify to the court under the certificate of its chairman its entire record in the matter in which the appeal has been taken. The prothonotary shall serve the board of adjustment, by registered mail, with a copy of the writ and a copy of the appeal petition. On or before the return day of the writ the board of adjustment shall file the entire record with the writ in the office of the prothonotary.

Any time during the pendency of the appeal, upon application of the appellant and upon due notice to the board of adjustment, the court or a judge thereof may, after hearing, grant an order of superseas upon such terms and conditions, including the filing of security, as the court or the judge may prescribe.

If, upon hearing of the appeal, it shall appear to the court that testimony is necessary for the proper disposition of the appeal, it may

take evidence or appoint a referee to take evidence as it may direct and report the same to the court with his findings of facts and conclusions of law. The court may reverse or affirm, in whole or in part, the decision appealed from as to it may appear just and proper.

March 15, 1956.

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

I return herewith, without my approval, Senate Bill No. 797, Printer's No. 499, entitled "An Act amending the act of June twenty-four, one thousand nine hundred thirty-one (Pamphlet Laws 1206), entitled 'An act concerning townships of the first class; amending, revising, consolidating and changing the law relating thereto,' requiring entrance of bond in appeals from board of adjustment rulings affecting zoning regulations."

This bill attempts to alter existing procedures in taking appeals in zoning cases. The language used to effect the changes is vague and indefinite and imposes serious problems of constitutionality.

Furthermore, the bill provides that where an appeal is taken from the grant of a permit to build in conformity with the zoning ordinance, the appellant must file a bond of not less than 25% of the cost of construction. This requirement would impose an excessive burden on the taking of appeals in such cases and would undoubtedly close our courts to legitimate appeals. I do not believe that such procedure is desirable or necessary.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 18

AN ACT

Amending the act of May twenty-one, one thousand nine hundred forty-three (Pamphlet Laws 571), entitled, as amended, "An act relating to assessment for taxation in counties of the fourth, fifth, sixth, seventh and eighth classes; designating the subjects, property and persons subject to and exempt from taxation for county, borough, town, township, schools, except in cities and county institution district purposes; and providing for and regulating the assessment and valuation thereof for such purposes; creating in each such county a board for the assessment and revision of taxes; defining the powers and duties of such boards; providing for the acceptance of this act by cities; regulating the office of ward, borough, town and township assessors; abolishing the office of assistant triennial assessor in townships of the first class; providing for the appointment of a chief assessor, assistant assessors and other employes; providing for their compensation payable by such counties; prescribing certain duties of and certain fees to be collected by the recorder of deeds and municipal officers who issue building permits; imposing duties on taxables making improvements on land and grantees of land; prescribing penalties; and eliminating the triennial assessment," imposing certain temporary restrictions on the taxing authorities of political subdivisions affected by the provisions of said act.

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

Section 1. Section six hundred two, act of May twenty-one, one thousand nine hundred forty-three (Pamphlet Laws 571), known as "The Fourth to Eighth Class County Assessment Law," amended

July seventeen, one thousand nine hundred fifty-three (Pamphlet Laws 464), is amended to read:

Section 602. Valuation of Persons and Property.—It shall be the duty of the chief assessor to assess, rate and value all subjects and objects of local taxation, whether for county, township, town, school (except in cities), county institution district, poor or borough purposes, according to the actual value thereof, and in the case of subjects and objects of local taxation other than real property at such rates and prices for which the same would separately bona fide sell. After there has been established and completed for the entire county the permanent system of records consisting of tax maps, property record cards and property owner's index, as required by section three hundred six of the act herein amended, real property shall be assessed at a value based upon an established predetermined ratio, of which proper notice shall be given, not exceeding seventy-five per centum (75%) of its actual value or the price for which the same would separately bona fide sell. In arriving at such value, the price at which any property may actually have been sold shall be considered, but shall not be controlling. Instead, such selling price estimated or actual shall be subject to revision by increase or decrease to accomplish equalization with other similar property within the county. After the completion of the permanent system of records for the county, when assessing real property, the chief assessor shall also take into consideration the value of such property as indicated by the use of the permanent system of records, cost charts and land values applied on the basis of zones and districts as well as the general adherence to the established predetermined ratio.

*After any county has established and completed for the entire county the permanent system of records consisting of tax maps, property record cards, and property owner's index, as required by section three hundred six of the act herein amended, and has made its first county assessment of real property under that system, and at values based upon an established, predetermined ratio as required by this section, each political subdivision which hereafter for the first time levies its real estate taxes on that first assessment or valuation shall, for that first year, reduce its tax rate, if necessary, for the purpose of having the total amount of taxes levied for that year against the real properties contained in the duplicate for the preceding year equal the same total amount it levied on such properties the preceding year plus their proportionate share of the amount necessary to pay the cost of having installed the permanent record system notwithstanding the increased valuations of such properties under the new assessment system. For the purpose of determining the total amount of taxes to be levied for said first year, the amount to be levied on newly constructed houses or on increased valuations based on new improvements made to existing houses need not be considered. The tax rate shall be fixed for that year at a figure (with a tolerance of 1/10 of a mill) which will accomplish this purpose. With the approval of the court of common pleas, upon good cause shown, any such political subdivision may increase the tax rate herein prescribed notwithstanding the provisions of this paragraph.*

Section 2. This act shall take effect immediately.

March 15, 1956.

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

I return herewith, without my approval, Senate Bill No. 877, Printer's No. 385, entitled "An Act amending the act of May twenty-one, one thousand nine hundred forty-three (Pamphlet Laws 571), entitled, as amended, 'An act relating to assessment for taxation in counties of the fourth, fifth, sixth, seventh and eighth classes; designating the subjects, property and persons subject to and exempt from taxation for county, borough, town, township, school, except in cities and county institution district purposes; and providing for and regulating the assessment and valuation thereof for such purposes; creating in each such county a board for the assessment and revision of taxes; defining the powers and duties of such boards; providing for the acceptance of this act by cities; regulating the office of ward, borough, town and township assessors; abolishing the office of assistant triennial assessor in townships of the first class; providing for the appointment of a chief assessor, assistant assessors and other employes; providing for their compensation payable by such counties; prescribing certain duties of and certain fees to be collected by the recorder of deeds and municipal officers who issue building permits; imposing duties on taxables making improvements on land and grantees of land; prescribing penalties; and eliminating the triennial assessment,' imposing certain temporary restrictions on the taxing authorities of political subdivisions affected by the provisions of said act."

This bill amends The Fourth to Eighth Class County Assessment Law by imposing certain restrictions on such counties following the establishment of the permanent record system and the making of its first assessment of real property under that system. The act requires that if political subdivisions which levy its real estate taxes on the basis of that first assessment must for the first year reduce its tax rate so that the total amount of taxes levied for the year equal the same total amount levied during the preceding year. The only way to avoid this restriction is with approval of the court of common pleas of the county.

Such a requirement would be unduly restrictive on the thousands of local subdivisions throughout the Commonwealth which will be affected by county reassessments, many of which would normally require increases to meet their obligations during the first year following the reassessment. Furthermore, to require them to obtain the approval of the court before increasing the tax rate would create an excessive burden on the courts. The disadvantages which would accrue as a result of passage of this bill far outweigh any possible protection afforded property owners.

For these reasons, this bill is not approved.

GEORGE M. LEADER

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No. 19  
AN ACT

To further amend sections twenty and twenty-one of the act, approved the first day of June, one thousand eight hundred eighty-nine (Pamphlet Laws 420), entitled "A further supplement to an act, entitled 'An act to provide revenue by taxation,' approved the seventh day of June, Anno Domini one

thousand eight hundred seventy-nine," by requiring additional reports and changing the due date of certain payments of capital stock tax and franchise tax; changing the gross receipts fraction applicable to foreign corporations; and further providing for the computation and payment of the tax by domestic corporations, joint-stock associations, limited partnerships and companies.

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

Section 1. Section twenty of the act, approved the first day of June, one thousand eight hundred eighty-nine (Pamphlet Laws 420), entitled "A further supplement to an act, entitled 'An act to provide revenue by taxation,' approved the seventh day of June, Anno Domini one thousand eight hundred seventy-nine," as last amended by the act, approved the sixteenth day of May, one thousand nine hundred forty-five (Pamphlet Laws 606), is hereby further amended to read as follows:

Section 20. That hereafter, except in the case of corporations of the first class, nonprofit corporations, and cooperative agricultural associations not having capital stock and not conducted for profit, banks, savings institutions, title insurance, or trust companies, building and loan associations, and foreign insurance companies, it shall be the duty of every corporation having capital stock, every joint-stock association, limited partnership, and every company whatsoever, now or hereafter organized or incorporated by or under any laws of this Commonwealth, and of every corporation, joint-stock association, limited partnership, and company whatsoever, nor or hereafter incorporated or organized by or under the law of any other State or Territory of the United States, or by the United States, or by any foreign government, and doing business in and liable to taxation within this Commonwealth, or having capital or property employed or used in this Commonwealth by or in the name of any limited partnership or joint-stock association, company, or corporation whatsoever, association or associations, copartnership or copartnerships, person or persons, or in any other manner, to make annually on or before the fifteenth day of March, for the calendar year next preceding, a report in writing to the Department of Revenue on a form or forms to be prescribed and furnished by it, setting forth, in addition to any other information required by the Department of Revenue:

First. The amount of its capital stock at the close of the year for which report is made, together with the highest selling price per share, and the average selling price thereof during said year.

Second. Its debt account.

Third. Its income account, together with the disposition of any net income, and its profit and loss statement.

Fourth. Its general balance sheet.

Fifth. Its real estate and tangible personal property, if any, owned and permanently located outside of the Commonwealth, and the value of the same; and the value of the property, if any, exempt from taxation.

Sixth. A valuation and appraisal, in the manner hereinafter provided, of the capital stock of the said corporation, company, joint-stock association, or limited partnership, at its actual value in cash as it existed at the close of the year for which the report is made.

The affidavit of two of the officers of such corporation, limited partnership, joint-stock association or company, shall be attached to said report. Such affidavit shall be in the form required by the Department of Revenue, but shall state, in addition to any other averments required by the department, that, with fidelity and according to the best of their knowledge and belief, the affiants have estimated, valued and appraised, as shown in said report, the capital stock of the said corporation at its actual value in cash as it existed at the close of the year for which report is made; taking into consideration, first, the average which said stock sold for during the year; and second, the price or value indicated or measured by net earnings or by the amount of profit made and either declared in dividends, expended in betterments, or carried into the surplus or sinking fund; and third, the actual value indicated or measured by consideration of the intrinsic value of its tangible property and assets, and of the value of its good will and franchises and privileges, as indicated by the material results of their exercise, taking also into consideration the amount of its indebtedness.

*For the purpose of making payments on account of tax payable under this act for the taxable year one thousand nine hundred fifty-six and thereafter, it shall also be the duty of every corporation liable to pay tax under this act to transmit in like form and manner an additional tentative report on or before the fifteenth day of March, one thousand nine hundred fifty-six, and annually thereafter, which report shall set forth (a) the capital stock tax or the franchise tax estimated by the corporation to be due for the taxable year next preceding and reported to the department under the provisions of this act, (b) the amount of the latest settlement or resettlement of capital stock tax or franchise tax made against the corporation for a preceding year, and (c) such other information as the department may require. The additional tentative report of any corporation which reports on a fiscal year basis shall be filed on the same date as the annual report for the preceding taxable year. Upon the date its tentative report is required herein to be made, every corporation shall pay on account of the tax due for the current year either (a) eighty per cent (80%) of the amount of the estimated tax as reported for the preceding taxable year, or (b) eighty per cent (80%) of the amount of the tax last settled or resettled against the corporation for a preceding taxable year whichever amount is greater. If the "preceding taxable year" is a portion of the year, the eighty per cent (80%) payment on account of the current year shall be computed against such multiple of the tax estimated, settled or resettled for such preceding taxable year as the entire year bears to the portion of the preceding year for which the tax was estimated, settled or resettled.*

*The remaining portion of the tax due for the current year shall be paid upon the date the corporation's annual report thereof is required herein to be made. In the event that the tax paid on account with the tentative report is in excess of the amount of tax finally determined to be due, the department shall grant a credit to the corporation for the amount of such excess.*

*Interest or penalty assessed by reason of failure to file a tentative report or make a payment on account of the tax shall be assessed in the same manner as now provided by law for capital stock and franchise taxes, but such interest and penalty shall be computed on the*

*eighty per cent (80%) of the tax liability for the current year as finally determined. Any interest or penalty imposed in excess of this amount, if unpaid, may be stricken off or, if paid, may be credited to the account of the corporation.*

The time for filing *annual* reports may be extended; taxpayers may be permitted to file their *annual and tentative* reports on a fiscal year basis; the procedure in case the Department of Revenue is not satisfied with the appraisal made by the officers of the taxpayer, and the penalties for failing to file reports and pay taxes shall be prescribed by law.

Section 2. Section twenty-one of said act as last amended by Act No. 171, approved the twenty-seventh day of September, one thousand nine hundred fifty-five (Pamphlet Laws 643), is hereby further amended to read as follows:

Section 21. (a) That every domestic corporation other than corporations of the first class, non-profit corporations, and cooperative agricultural associations not having capital stock and not conducted for profit, and every joint-stock association, limited partnership, and company whatsoever, from which a report is required under the twentieth section hereof, shall be subject to, and pay into the treasury of the Commonwealth annually, through the Department of Revenue, a tax at the rate of five mills upon each dollar of the actual value of its whole capital stock of all kinds, including common, special, and preferred, as ascertained in the manner prescribed in said twentieth section, *except that if any domestic corporation, limited partnership, joint-stock association or company subject to the tax prescribed herein shall carry on business outside of the Commonwealth of Pennsylvania, it may elect to compute and pay its tax under and in accordance with the provisions of subsection (B) of this section 21:* Provided, That the tax of five mills imposed by this subsection on reports filed for the calendar years one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, one thousand nine hundred fifty, one thousand nine hundred fifty-one, one thousand nine hundred fifty-two, one thousand nine hundred fifty-three, one thousand nine hundred fifty-four, one thousand nine hundred fifty-five and one thousand nine hundred fifty-six, or for the fiscal years beginning in the calendar years one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, one thousand nine hundred fifty, one thousand nine hundred fifty-one, one thousand nine hundred fifty-two, one thousand nine hundred fifty-three, one thousand nine hundred fifty-four, one thousand nine hundred fifty-five and one thousand nine hundred fifty-six, shall apply to the taxation of capital stock of corporations, limited partnerships and joint-stock associations organized for manufacturing purposes, excepting companies engaged in the distilling of liquors: Provided, further, That after said ten year period the provisions of this section shall not apply to the taxation of the capital stock of corporations, limited partnerships and joint-stock associations organized for manufacturing purposes, which is invested in and actually and exclusively employed in carrying on manufacturing within the State, excepting companies engaged in the distilling of liquors and such as enjoy and exercise the right of eminent domain, but every corporation, limited partnership or joint-stock association

organized for the purpose of manufacturing shall pay the State tax of five mills herein provided, upon such proportion of its capital stock, if any, as may be invested in any property or business not strictly incident or appurtenant to the manufacturing business, in addition to the local taxes assessed upon its property in the district where located, it being the object of this proviso to relieve from State taxation only so much of the capital stock as is invested purely in the manufacturing plant and business.

(b) Every foreign corporation, joint-stock association, limited partnership, and company whatsoever, from which a report is required under the twentieth section hereof, shall be subject to and pay into the treasury of the Commonwealth annually, through the Department of Revenue, a franchise tax at the rate of five mills upon a taxable value to be determined in the following manner. The actual value of its whole capital stock of all kinds, including common, special, and preferred, shall be ascertained in the manner prescribed in the twentieth section of this act, and shall then be divided into three equal parts.

(1) Of one third, such portion shall be attributed to business carried on within the Commonwealth, as shall be found by multiplying said third by a fraction, whose numerator is the value of the taxpayer's tangible property not actually and exclusively used in manufacturing, situated within the Commonwealth, and whose denominator is the value of all the taxpayer's tangible property wherever situated.

(2) Of another third, such portion shall be attributed to business carried on within the Commonwealth, as shall be found by multiplying said third by a fraction, whose numerator is the expenditures of the taxpayer for wages, salaries, commissions, or other compensation to its employes not exclusively engaged in manufacturing in this Commonwealth and assignable to this Commonwealth as hereinafter provided, and whose denominator is the total expenditures of the taxpayer for wages, salaries, commissions, or other compensation to all its employes.

(3) Of the remaining third, such portion shall be attributed to business carried on within the Commonwealth, as shall be found by multiplying said third by a fraction, whose numerator is the amount of the taxpayer's gross receipts from business not strictly incident or appurtenant to manufacturing in this Commonwealth assignable to this Commonwealth as hereinafter provided, and whose denominator is the amount of the taxpayer's gross receipts from all its business. *For the purpose of this section, gross receipts shall not include receipts from the sale, redemption, maturity or exchange of securities, except those held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business.*

The sum of the amounts, determined in accordance with the foregoing three rules, shall be the taxable value. In a case where only two of the foregoing three rules are applicable, the remaining third equal part of the value of the entire capital stock shall be divided into two equal parts, each of which shall be apportioned in accordance with one of the remaining two rules. If only one of the three rules is applicable, that part of the entire capital stock attributed to business carried on within the Commonwealth shall be determined solely by that rule.

The amount assignable to this Commonwealth of expenditures of the taxpayers for wages, salaries, commissions, or other compensation



to its employes, shall be such expenditures for the taxable year as represent the wages, salaries, commissions, or other compensation of employes not chiefly situated at, connected with, or sent out from premises for the transaction of business maintained by the taxpayer outside the Commonwealth.

The amount of the taxpayer's gross receipts from business assignable to this Commonwealth shall be, (1) the amount of its gross receipts for the taxable year except those negotiated or effected in behalf of the taxpayer by agents or agencies chiefly situated at, connected with, or sent out from premises for the transaction of business maintained by the taxpayer outside the Commonwealth, and except rents and royalties, and interest and dividends, (2) rentals or royalties from property situated or from the use of patents within this Commonwealth, and (3) dividends and interest, except such dividends and interest attributable to the business conducted on premises maintained by the taxpayer outside the Commonwealth. If a taxpayer maintain an office, warehouse, or other place of business in a state other than this Commonwealth for the purpose of reducing its tax under this subsection, the Department of Revenue shall, in determining the amount of its gross receipts from business assignable to this Commonwealth, include therein the gross receipts attributed by the taxpayer to the business conducted at such place of business in another state.

In the case of construction contracts negotiated or effected at an office in the State of Pennsylvania, but performed outside the State, the gross receipts under such contracts shall be assignable outside the State, except that if the activities under any such contract to which the gross receipts are attributable shall occur partly within the State and partly outside the State, such proportion of the gross receipts under said contract shall be assignable to Pennsylvania as the direct and indirect costs incurred in Pennsylvania under the contract for the taxable year bear to the total costs incurred thereunder for the taxable year. In the case of construction contracts negotiated or effected at an office outside the State, but performed in the State, the gross receipts under such contract shall be assignable to the State, except that if the activities under any such contract to which the gross receipts are attributable shall occur partly within the State and partly outside the State, such proportion of the gross receipts under said contracts shall be assignable to Pennsylvania as the direct and indirect costs incurred in the State under the contract for the taxable year bear to the total cost incurred thereunder for the taxable year.

A rule shall not be deemed to be inapplicable merely because all the tangible property or the expenditures of a taxpayer for wages, salaries, commissions, or other compensation, or the gross receipts of the taxpayer are found to be situated, incurred, or received without the Commonwealth.

Notwithstanding the foregoing provisions of this subsection (b), the franchise tax of five mills imposed by subsection (b) on reports filed for the calendar years one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, one thousand nine hundred fifty, one thousand nine hundred fifty-one, one thousand nine hundred fifty-two, one thousand nine hundred fifty-three, one thousand nine hundred fifty-four, one thousand nine hundred fifty-five and one thousand nine hundred fifty-six,

and for fiscal years beginning in the calendar years one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, one thousand nine hundred fifty, one thousand nine hundred fifty-one, one thousand nine hundred fifty-two, one thousand nine hundred fifty-three, one thousand nine hundred fifty-four, one thousand nine hundred fifty-five and one thousand nine hundred fifty-six, shall apply to the taxation of corporations, limited partnerships and joint-stock associations organized for manufacturing purposes excepting companies engaged in the distilling of liquors, without excluding from the numerators of the applicable fractions tangible property actually and exclusively used in manufacturing, compensation of employes exclusively engaged in manufacturing, and gross receipts from business strictly incident or appurtenant to manufacturing.

After said ten year period the provisions of this subsection shall apply to the taxation of corporations, limited partnerships and joint-stock associations organized for manufacturing purposes.

(c) It shall be the duty of the treasurer or other officers having charge of any such corporation, joint-stock association, or limited partnership, upon which a tax is imposed by this section, to transmit the amount of said tax to the Treasury of the Commonwealth within the time prescribed by law: Provided, That for the purposes of this act interest in limited partnerships or joint-stock associations shall be deemed to be capital stock, and taxable accordingly: Provided further, That corporations, limited partnerships, and joint-stock associations, liable to a tax under this section, shall not be required to pay any further tax on the mortgages, bonds, and other securities owned by them and in which the whole body of stockholders or members, as such, have the entire equitable interest in remainder; but corporations, limited partnerships, and joint-stock associations, owning or holding such securities as trustees, executors, administrators, guardians, or in any other manner than for the whole body of stockholders or members thereof as sole equitable owners in remainder, shall return and pay the tax imposed by this act upon all securities so owned or held by them, as in the case of individuals: Provided further, That the tax of five mills, imposed by this section on reports filed for the calendar years one thousand nine hundred and thirty-five and one thousand nine hundred and thirty-six, and for each calendar year thereafter, or for the fiscal years beginning in the calendar years one thousand nine hundred and thirty-five and one thousand nine hundred and thirty-six, and for each fiscal year thereafter, shall apply to the taxation of the capital stock of corporations, limited partnerships, and joint-stock associations, organized for laundering and for the processing and curing of meats, their products and by products, excepting companies engaged in the distilling of liquors: Provided further, That in case of fire and marine insurance companies, the tax imposed by this section shall be at the rate of five mills upon each dollar of the actual value of the whole capital stock: Provided, That nothing in this act shall be so construed as to apply to building and loan associations chartered by the State of Pennsylvania.

Section 3. The provisions of this act shall become effective immediately upon final enactment.

March 16, 1956.

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

I return herewith, without my approval, House Bill No. 1880, Printer's No. 1447, entitled "An act to further amend sections twenty and twenty-one of the act, approved the first day of June, one thousand eight hundred eighty-nine (Pamphlet Laws 420), entitled 'A further supplement to an act, entitled "An act to provide revenue by taxation," approved the seventh day of June, Anno Domini one thousand eight hundred seventy-nine,' by requiring additional reports and changing the due date of certain payments of capital stock tax and franchise tax; changing the gross receipts fraction applicable to foreign corporations; and further providing for the computation and payment of the tax by domestic corporations, joint-stock associations, limited partnerships and companies."

This bill was introduced on November twenty-one, one thousand nine hundred fifty-five, and was designed to place payment of the capital stock and franchise taxes on a current basis. Such result was to be accomplished by accelerating the payment of such taxes for one thousand nine hundred fifty-six, requiring 80% of the tax due for that year to be paid on March fifteenth. A tentative return likewise was to be filed on that date. The purpose of this proposal was to provide additional revenues for the current biennium.

The bill was passed finally by the House on November twenty-three, one thousand nine hundred fifty-five, and immediately sent to the Senate where it was referred to the Finance Committee. It languished in that committee for nearly two months, until January seventeen, one thousand nine hundred fifty-six, when it was reported out and received first reading. It should be noted that at this point the bill remained in this same form as its original draft. Then, for some inexplicable reason, the bill was recommitted to the Finance Committee and not re-reported out until February twenty-eight, one thousand nine hundred fifty-six, this time with amendments. Final passage occurred on March two, one thousand nine hundred fifty-six.

Following recommission of the bill to the Senate Finance Committee on January twenty-three, one thousand nine hundred fifty-six, it was amended to give domestic corporations doing business outside the Commonwealth the option of being taxed under either the domestic capital stock tax or the foreign franchise tax. The present law requires all domestic corporations to pay tax under the former.

By allowing these corporations so to choose their tax, serious fiscal, administrative and legal problems would occur. First, the foreign franchise tax being an excise, not a property tax, it permits allocation of revenue on the basis of the usual fractions. Thus, a domestic corporation allowed so to allocate could materially reduce the amount of tax it otherwise would be required to pay under the capital stock tax. The resulting decrease in revenue to the Commonwealth is inestimable, but it might well have absorbed the full value of the acceleration feature proposed by the Administration.

The bill does not set forth the taxable year to which the option first would apply. Moreover, it would permit a corporation to exercise its option in either direction in any year, thus promoting confusion in the administration of these taxes. If the taxpayer chose to be taxed

under the franchise tax formula and the State's taxing officers later redetermined that such formula results in a higher tax than under the capital stock tax formula, the taxpayer could then switch his option to the latter and hopelessly involve the taxing officers in the elusive game of trying to pin down the taxpayer.

Finally, the amendment discriminates against domestic corporations which do all of their business in Pennsylvania by denying to them this option given to similar corporations doing a multiple State business. This situation may well be construed by the courts as an unconstitutional discrimination. Nor does the solution lie in extending the option to all domestic corporations.

It is remarkable to note that the present capital stock and franchise tax structure has existed since one thousand nine hundred thirty-five without any serious demand for the option until recently. It does not seem far-fetched to assume that this sudden desire for change stems from the present Administration's policy of enforcing the capital stock and franchise taxes properly and collecting the full measure of these taxes. At a time when the Commonwealth's financial condition is so dire as to necessitate new taxes, it is the extreme of hypocrisy to emasculate an existing tax law.

Furthermore, the behavior of the Senate Finance Committee in first reporting the bill out unchanged and then having it returned to insert this amendment, reveals only too clearly that private interests were hard at work to achieve the passage of the amendment. I cannot countenance such manipulation under any circumstances; but when the fiscal situation is so desperate, the committee's actions deserve severe condemnation.

Beyond this patent show of favoritism, the committee should be further reproached for its long delay in reporting out the bill. Between November twenty-one, one thousand nine hundred fifty-five, and March six, one thousand nine hundred fifty-six (when I received the bill), there elapsed a period of 106 days. For 91 of these the bill lay in the Senate Finance Committee. By the time it finally passed, it was obviously impossible as a practical matter for a corporation to comply with the requirements that tax be paid and a tentative return filed on March fifteen, one thousand nine hundred fifty-six. I can attribute no other motives to these occurrences than a desire on the part of the committee to favor certain private interests and to hinder the Commonwealth even more in its search for revenue.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 20

AN ACT

Amending subsections (a) and (g) of section four hundred three, act of April twelve, one thousand nine hundred fifty-one (Pamphlet Laws 90), entitled "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the

establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws," further regulating the application for an issuance of hotel, restaurant and club liquor licenses.

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

Section 1. Subsections (a) and (g) of section four hundred three, act of April twelve, one thousand nine hundred fifty-one (Pamphlet Laws 90), known as the "Liquor Code," are amended to read:

Section 403. Applications for Hotel, Restaurant and Club Liquor Licenses.—(a) Every applicant for a hotel liquor license, restaurant liquor license or club liquor license shall file a written application with the board in such form and containing such information as the board shall from time to time prescribe, which shall be accompanied by a filing fee of ten dollars, the prescribed license fee, and the bond hereinafter specified. Every such application shall contain a description of that part of the hotel, restaurant or club for which the applicant desires a license and shall set forth such other material information, description or plan of that part of the hotel, restaurant or club where it is proposed to keep and sell liquor as may be required by the regulations of the board. *The descriptions, information and plans referred to in this subsection shall show the hotel, restaurant, club or the proposed location for the construction of a hotel, restaurant or club at the time of the application is made, and shall show any alterations proposed to be made thereto or the new building proposed to be constructed, after the approval by the board of the application for a license. No physical alterations, improvements or changes shall be required to be made to any hotel, restaurant or club, nor shall any new building for any such purpose be required to be constructed until approval of the application for license by the board. After approval of the application, the licensee shall make the physical alterations, improvements and changes to the licensed premises, or has approved the new building as shall be specified by the board at the time of approval, and the licensee shall not transact any business under the license until the board has approved the physical improvements and changes to the licensed premises as conforming to the specifications required by the board at the time of issuance of the license.*

\* \* \* \* \*

(g) Every applicant for a new license or for the transfer of an existing license to another premises not then licensed shall post, for a period of at least fifteen days beginning with the day the application is filed with the board, in a conspicuous place on the outside of the premises *or at the proposed new location* for which the license is applied, a notice of such application, in such form, of such size, and containing such provisions as the board may require by its regulations. Proof of the posting of such notice shall be filed with the board.

\* \* \* \* \*

April 6, 1956.

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

I return herewith, without my approval, House Bill No. 76, Printer's No. 572, entitled "An act amending subsections (a) and (g) of section 403, act of April twelve, one thousand nine hundred fifty-one (Pamphlet Laws 90), entitled 'An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws,' further regulating the application for an issuance of hotel, restaurant and club liquor licenses."

This bill amends Section 403 of the Liquor Code, the act of April twelve, one thousand nine hundred fifty-one, Pamphlet Laws 90.

Under the present law, every applicant for a hotel liquor license, restaurant liquor license or club liquor license must file an application containing a description of that part of the hotel, restaurant or club for which the applicant desires a license as well as that part of the hotel, restaurant or club where it is proposed to keep and sell liquor as may be required by the regulations of the board.

The amendment would provide that this information would be given and would show the hotel, restaurant, club or the proposed location for the construction of a hotel, restaurant or club at the time of the application and would show any alterations proposed to be made or the new building proposed to be constructed, but no alterations, improvements or changes shall be required to be made nor new building constructed until approval of the application by the board.

This amendment would introduce a new conception in connection with the construction and alteration of buildings to be used as hotels, restaurants and clubs in that the most important factor would be the possession of a liquor license.

This is contrary to our philosophy of government in dealing with liquor, which is to treat the dispensing of liquor an adjunct to a hotel, restaurant or club, but not as the sole reason for their existence. Our courts have from time to time said that the purpose of the liquor laws was to regulate and restrict sales of liquor, not to promote them.

The Liquor Code expressly provides that it shall be deemed an exercise of the police power of the Commonwealth for the public welfare, health, peace and morals of the people of the Commonwealth and to prohibit forever the open saloon.

I do not consider this amendment to be in conformity with these purposes nor in the public interest.

For these reasons, the bill is not approved.

GEORGE M. LEADER

## AN ACT

Amending the act of April twelve, one thousand nine hundred fifty-one (Pamphlet Laws 90), entitled "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws," changing the time within which a notice of hearing upon a citation may be issued and the nature of the notice, and requiring notice of violations noted by an agent or employe of the board as a prerequisite to the imposition of a penalty, suspension or revocation.

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

Section 1. Section four hundred seventy-one, act of April twelve, one thousand nine hundred fifty-one (Pamphlet Laws 90), known as the "Liquor Code," is amended to read:

Section 471. Revocation and Suspension of Licenses.—Upon learning of any violation of this act or any laws of this Commonwealth relating to liquor, alcohol or malt or brewed beverages, or of any regulations of the board adopted pursuant to such laws, of any violations of any laws of this Commonwealth or of the United States of America relating to the tax-payment of liquor or malt or brewed beverages by any licensee within the scope of this article, his officers, servants, agents or employes, or upon any other sufficient cause shown, the board may, within [one year] *ninety days* from the date of such violation or cause appearing, cite such licensee to appear before it or its examiner, not less than ten nor more than fifteen days from the date of sending such licensee, by registered mail, a notice addressed to him at his licensed premises, to show cause why such license should not be suspended or revoked. *Such notice shall contain a complete statement and particulars of the charges.* Hearings on such citations shall be held in the same manner as provided herein for hearings on applications for license. Upon such hearing, if satisfied that any such violation has occurred or for other sufficient cause, the board shall immediately suspend or revoke the license, notifying the licensee thereof by registered letter addressed to his licensed premises. Such suspensions and revocations shall not go into effect until twenty days have elapsed from the date of notice of issuance of the board's order, during which time the licensee may take an appeal as provided for in this act. When a license is revoked, the licensee's bond may be forfeited by the board. Any licensee whose license is revoked shall be ineligible to have a license under this act until the expiration of three years from the date such license was revoked. In the event the board shall revoke a license, no license shall be granted for the premises or transferred to the premises in which the said license was conducted for a period of at least one year after the date of the revocation of the license conducted in the said premises, except in cases where the

licensee or a member of his immediate family is not the owner of the premises, in which case the board may, in its discretion, issue or transfer a license within the said year. In all such cases, the board shall file of record at least a brief statement in the form of an opinion of the reasons for the ruling or order. In the event the person whose license was suspended or revoked by the board shall feel aggrieved by the action of the board, he shall have the right to appeal to the court of quarter sessions or the county court of Allegheny County in the same manner as herein provided for appeals from refusals to grant licenses. Upon appeal, the court so appealed to shall, in the exercise of its discretion, sustain, reject, alter or modify the findings, conclusions and penalties of the board, based on the findings of fact and conclusions of law as found by the court. The aforesaid appeal shall act as a supersedeas unless upon sufficient cause shown the court shall determine otherwise. The licensee or the board may, within thirty days from the filing of the order or decree of said court, file an appeal therefrom to the Superior Court. In those cases where the board shall suspend a license, the board may accept from the licensee an offer in compromise as a penalty in lieu of such suspension and thereupon rescind such suspension. In the case of a manufacturer of malt or brewed beverages, the offer in compromise shall be at the rate of one hundred dollars (\$100) for each day of suspension; in the case of a liquor importer, sacramental wine licensee and a malt or brewed beverage importing distributor, thirty dollars (\$30); in the case of a distributor of malt or brewed beverages, twenty dollars (\$20) for each day of suspension; and in the case of a hotel, restaurant and club liquor licensee, and a retail malt or brewed beverage dispenser, or transporter for hire, ten dollars (\$10) for each day of suspension. No offer in compromise may be accepted by the board in those cases where the suspension is for a period in excess of 100 days.

*No penalty or suspension or revocation of license provided by this section shall be imposed by the board or any court for any violation of the provisions of this section by a licensee, his agent, servant or employe on the licensed premises noted by any agent or employe of the board, unless within fifteen days after the violation noted by the agent or employe of the board, the board notifies the licensee in writing of the nature and time of the violation.*

The jurisdiction of the county court of Allegheny County conferred hereby shall be exclusive within the territorial limits of its jurisdiction.

April 6, 1956.

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

I return herewith, without my approval, House Bill No. 400, Printer's No. 806, entitled "An act amending the act of April twelve, one thousand nine hundred fifty-one (Pamphlet Laws 90), entitled 'An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of



the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws, changing the time within which a notice of hearing upon a citation may be issued and the nature of the notice, and requiring notice of violations noted by an agent or employe of the board as a prerequisite to the imposition of a penalty, suspension or revocation.”

This bill amends the act of April twelve, one thousand nine hundred fifty-one, Pamphlet Laws 90, known as the “Liquor Code.”

The amendatory language of the bill reduces from one year to ninety days the period following a violation of the Code within which the Liquor Control Board may cite a licensee to show cause why his license should not be suspended or revoked.

While the statute of limitations is two years for many crimes or offenses, this amendment would reduce it to a mere ninety days in so far as violations of the liquor laws are concerned. This section of the Liquor Code as it presently stands has been held by the Supreme Court of Pennsylvania to satisfy all the requirements of due process and adequate remedy at law, in view of the fact that the licensee may appeal any suspension or revocation to the court. The purpose of the Liquor Code is to control and regulate the sale of liquor. The only apparent excuse for this amendment is to weaken the State’s control and to invite and encourage violations of the Code.

The bill further amends Section 471 so that the notice to the licensee shall contain a complete statement and particulars of the charges on which the citation is based. Thus the amendment requires more information than an information or indictment. Why the violator of the Liquor Code should be placed in a more favorable position than the violator of any other penal law is difficult to understand. Nor is any sound reason apparent why the Liquor Control Board should disclose all of its evidence prior to a hearing. The final assault upon the Liquor Code is the amendment which provides that no penalty or suspension or revocation in this section shall be imposed unless within fifteen days after the violation noted by the agent of the board, the board notifies the licensee in writing of the nature and time of the violation. This is in effect a reduction of the statute of limitations to a period of fifteen days. Under the common law there was no limitation to criminal proceedings by indictment. Today the limitation is in some instances six, five or two years. I do not propose to be a party to reducing the period to fifteen days, thus protecting those who frustrate and defy the provisions of the Liquor Code.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 22

AN ACT

Amending the act of June five, one thousand nine hundred thirty-five (Pamphlet Laws 266), entitled “An act to protect trade-mark owners, distributors, and the public against injuries and uneconomic practices in the distribution of

articles of standard quality under a distinguished trade-mark, brand or name," further regulating exceptions to contracts of sale and actions at law for unfair competition.

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

Section 1. Sections one and two, act of June five, one thousand nine hundred thirty-five (Pamphlet Laws 266), entitled "An act to protect trade-mark owners, distributors, and the public against injuries and uneconomic practices in the distribution of articles of standard quality under a distinguished trade-mark, brand or name," amended June twelve, one thousand nine hundred forty-one (Pamphlet Laws 128), is amended to read:

Section 1. Be it enacted, &c., That no contract relating to the sale or resale of a commodity which bears, or the label or content of which bears, or the vending equipment from which said commodity is sold to the consumer bears the trademark, brand or the name of the producer or owner of such commodity, and which is in fair and open competition with commodities of the same general class produced by others, shall be deemed in violation of any law of the State of Pennsylvania by reason of any of the following provisions which may be contained in such contract:

(a) That the buyer will not resell such commodity, except at the price stipulated by the vendor.

(b) That the buyer of such commodity require upon his resale of such commodity that the purchaser from him agree that such purchaser will not in turn resell except at the price stipulated by the vendor of the buyer.

Such provisions in any contract shall be deemed to contain or imply conditions that such commodities may be resold without reference to such agreement in the following cases:

(a) In closing out the owner's stock for the purpose of discontinuing delivering any such commodity: *Provided, That the owner shall first have offered, in writing, to return such commodity to the producer thereof or the owner of such trade-mark, brand or name for a price no more than the net invoiced cost plus transportation charges of the owner proposing to discontinue delivery of such commodity, which offer has not been accepted within twenty (20) days after receipt thereof.*

(b) When the goods are damaged or deteriorated in quality, or removed from the fair trade price schedule of the producer or owner of the trade-mark, brand or name, and notice is given the public thereof.

(c) By any officer acting under orders of any court or in the execution of any writ or distress.

Section 2. Wilfully and knowingly advertising, offering for sale, or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of section one of this act, whether the person so advertising, offering for sale, or selling is, or is not, a party to such contract, is unfair competition and is actionable at the suit of such vendor, buyer or purchaser of such commodity. *It shall be a complete defense to such an action for defendant to prove that the party stipulating such price, after at least seven*

*days' written notice prior to the commencement of such action, has failed to take reasonably effective steps to insure compliance by those in competition with the defendant.*

April 6, 1956.

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

I return herewith, without my approval, House Bill No. 1418, Printer's No. 1524, entitled "An act amending the act of June five, one thousand nine hundred thirty-five (Pamphlet Laws 266), entitled 'An act to protect trade-mark owners, distributors, and the public against injuries and uneconomic practices in the distribution of articles of standard quality under a distinguished trade-mark, brand or name,' further regulating exceptions to contracts of sale and actions at law for unfair competition."

Subsection (a) of the proviso to Section 1 would have the effect of requiring a merchant who is in need of funds due to an emergency situation to wait 20 days prior to disposing at close-out prices of fair traded merchandise in his stock. This would have an unfortunate effect on many small businessmen who would find themselves in the position of having goods in their possession and yet not being able to dispose of them to meet obligations and it might result in the bankruptcy or other financial embarrassment of such merchants. Because of this danger inherent in subsection (a), it is necessary for me to veto this legislation.

For this reason, the bill is not approved.

GEORGE M. LEADER

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No. 23

AN ACT

Amending the act of May twenty-five, one thousand nine hundred thirty-three (Pamphlet Laws 1050), entitled "An act creating and establishing a fund for the care, maintenance, and relief of aged, retired and disabled employes of the bureau of fire in cities of the second class; creating a board for the management thereof; providing the mode and manner of payment to beneficiaries, and for the care and disposition of its funds; and providing for the transfer and payment of all moneys and securities in existing funds in similar boards superseded by the fund and board herein created," further regulating payments to certain beneficiaries under the fund.

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

Section 1. Subsection (a) of section twelve, act of May twenty-five, one thousand nine hundred thirty-three (Pamphlet Laws 1050), entitled "An act creating and establishing a fund for the care, maintenance, and relief of aged, retired and disabled employes of the bureau of fire in cities of the second class; creating a board for the management thereof; providing the mode and manner of payment to beneficiaries, and for the care and disposition of its funds and providing for the transfer and payment of all moneys and securities in existing funds in similar boards superseded by the fund and board herein

created," amended February one, one thousand nine hundred fifty-six (Pamphlet Laws 981, Act No. 306), is amended to read:

Section 12. (a) Beneficiaries under the fund, who retire on or after January one; one thousand nine hundred fifty-six, shall be entitled to receive from the fund, per month, [fifty per centum of the highest average annual salary] *an amount equaling not less than fifty per centum of the average monthly salary* earned by the contributor as an employe of the bureau of fire of the city during any five *calendar* years of service *or the last sixty months immediately* preceding retirement, but in no event shall the maximum monthly pension payment exceed two hundred and fifty dollars per month.

\* \* \* \* \*

April 6, 1956.

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

I return herewith, without my approval, House Bill No. 2049, Printer's No. 1442, entitled "An act amending the act of May twenty-five, one thousand nine hundred thirty-three (Pamphlet Laws 1050), entitled 'An act creating and establishing a fund for the care, maintenance, and relief of aged, retired and disabled employes of the bureau of fire in cities of the second class; creating a board for the management thereof; providing the mode and manner of payment to beneficiaries, and for the care and disposition of its funds; and providing for the transfer and payment of all moneys and securities in existing funds in similar boards superseded by the fund and board herein created,' further regulating payments to certain beneficiaries under the fund."

The existing law provides that the beneficiary upon retirement is entitled to receive per month 50% of the highest average annual salary earned by him during any 5 years of service providing, however, that the maximum monthly pension does not exceed \$250.00 per month.

This bill amends the aforesaid provision by providing that the said beneficiary is to receive an amount not less than 50% of his average monthly salary earned by him during any 5 calendar years of service or, in the alternative, the last 60 months immediately preceding retirement so long as the maximum monthly pension does not exceed \$250.00 per month.

This bill is defective in that it provides that 50% of the average monthly salary is to be the minimum amount received without relating any limitations thereafter as to increased amounts below \$250.00 per month and furthermore, fails to provide for an adjustment in contributions to be made by the beneficiaries for increased benefits which they may receive therefrom.

The failure to provide for said adjustment in contributions by beneficiaries renders this bill financially unsound and subject to abuse.

For these reasons, the bill is not approved.

GEORGE M. LEADER

No. 24  
AN ACT

Amending the act of May twenty-six, one thousand nine hundred forty-nine (Pamphlet Laws 1828), entitled "An act concerning the investment powers and duties of guardians, committees, trustees, and other fiduciaries, except personal representatives, and prescribing the nature and kind of investments which may be made and retained by such fiduciaries," further prescribing the eligibility for authorized investments of the obligations of municipality authorities.

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

Section 1. Clause (3) of section five, act of May twenty-six, one thousand nine hundred forty-nine (Pamphlet Laws 1828), known as the "Fiduciaries Investment Act of 1949," amended August nineteen, one thousand nine hundred fifty-three (Pamphlet Laws 1154), is amended to read:

Section 5. Obligations of Pennsylvania Governmental Organizations.—Obligations of the following Pennsylvania governmental organizations shall be authorized investments:

\* \* \* \* \*

(3) Municipality Authorities. Obligations of any municipality authority issued pursuant to the laws of the Commonwealth relating to the creation or operation of municipality authorities, if the obligations are not in default and if *the project for which the obligations were issued is under lease to a municipality or municipalities or subject to a service contract with a municipality or municipalities pursuant to which the authority will receive lease rentals or service charges available for fixed charges on the obligations of not less than one and one-fifth times the annual fixed charges of such obligations over the life thereof, or if the obligations are not in default and if, for the period of five fiscal years next preceding the date of acquisition, the income of such authority available for fixed charges has averaged not less than one and one-fifth times its average annual fixed charges of such obligations over the life of such obligations.* As used in this clause, the term "income available for fixed charges" shall mean income after deducting operating and maintenance expenses, and unless the obligations are payable in serial, annual maturities, or are supported by annual sinking fund payments, depreciation, but excluding extraordinary nonrecurring items of income or expenses; and the term "fixed charges" shall include principal, both maturity and sinking fund, and interest on bonded debt. In computing such income available for fixed charges for the purposes of this section, the income so available of any corporation acquired by any municipality authority may be included, such income to be calculated as though such corporation had been operated by a municipality authority and an equivalent amount of bonded debt were outstanding.

The eligibility for investment purposes of obligations of each project of a municipality authority shall be separately considered hereunder, and if the project of a municipality authority is a public school building, no earning record shall be required as a condition of eligibility for investment by fiduciaries

April 13, 1956.

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

I return herewith, without my approval, Senate Bill No. 1020, Printer's No. 583, entitled "An act amending the act of May twenty-six, one thousand nine hundred forty-nine (Pamphlet Laws 1828), entitled 'An act concerning the investment powers and duties of guardians, committees, trustees, and other fiduciaries, except personal representatives, and prescribing the nature and kind of investments which may be made and retained by such fiduciaries,' further prescribing the eligibility for authorized investments of the obligations of municipality authorities."

This bill amends Section 5, Clause 3 of the Fiduciaries Investment Act of 1949, as last amended by the act of August nineteen, one thousand nine hundred fifty-three, Pamphlet Laws 1154. Section 5 enumerates those obligations of Pennsylvania governmental organizations which will be authorized investments within the act. Clause 3, which is here sought to be amended defines those obligations of municipal authorities which will be considered as authorized investments.

Though I am in complete accord as to the laudable purpose of this bill, I am aware that certain ambiguities are contained therein, the effect of which could well alter the application of the amendatory language beyond that for which it was intended, thereby adversely affecting the entire sale of School Authority bonds.

I veto this bill with the understanding that circumstances make it impossible for the bill to have been recalled to permit the necessary amendments as a result of which the ambiguities to which I have referred would have been eliminated, and, further, that a bill wherein the necessary amendments will be made will be presented to the Legislature when it reconvenes.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 25

AN ACT

Amending the act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled "An act for the protection of the public safety; regulating the use of highways, and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances, and legal claims; registration of certain vehicles and licensing the operators thereof, upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are admissible as evidence; imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds," defining transit mix vehicles and fixing registration fees and permissible weights therefor.

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

Section 1. Section 102, act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), known as "The Vehicle Code," amended May eighteen, one thousand nine hundred forty-nine (Pamphlet Laws 1412), is amended by adding, after the definition "Trailer," a new definition to read:

Section 102. Definitions.—The following words and phrases when used in this act, shall, for the purpose of this act, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

\* \* \* \* \*

"*Transit Mix Vehicles.*"—Every motor vehicle designed and used primarily for the transportation of transit mix materials and not so constructed as to carry a load other than transit mix material.

\* \* \* \* \*

Section 2. The first paragraph of section 703 of the act, amended June thirty, one thousand nine hundred fifty-five (Pamphlet Laws 225, Act No. 70), is amended to read:

Section 703. Commercial Motor Vehicles and Truck Tractors with Pneumatic Tires.—Commercial motor vehicles and truck tractors with pneumatic tires, other than those electrically operated and transit mix vehicles, shall be divided into eight (8) classes, and the fee for annual registration of such vehicles in each of the respective classes, based on the gross chassis weight, as given and certified to by the manufacturer, shall be as follows:

\* \* \* \* \*

Section 3. The act is amended by adding, after section seven hundred five, a new section to read:

Section 705.1. *Transit Mix Vehicles with Pneumatic Tires.*—Transit mix classes with pneumatic tires shall be divided into six (6) classes, and the fee for annual registration of the respective classes as certified by the applicant shall be as follows:

<i>Class</i>		<i>Four-wheeled 2 Axles Transit Mix Vehicles.</i>	
<i>XR</i>	<i>2 cubic yards and over, but less than 4 yards capacity,</i>	.....	<i>\$223.00</i>
		<i>Six-wheeled 3 Axles Transit Mix Vehicles.</i>	
<i>XU</i>	<i>3½ yards and over, but less than 5 yards capacity,</i>	.....	<i>250.00</i>
<i>XV</i>	<i>4½ yards and over, but less than 6 yards,</i>	.....	<i>325.00</i>
<i>XW</i>	<i>5½ yards and over, but less than 7 yards</i>	.....	<i>400.00</i>
<i>XY</i>	<i>6½ yards and over, but less than 8 yards,</i>	.....	<i>475.00</i>
		<i>Eight-wheeled (4 axles in pairs) Transit Mix Vehicles.</i>	
<i>XZ</i>	<i>7½ yards and over, but less than 9½ yards capacity,</i>	.....	<i>550.00</i>

Section 4. The first paragraph of subsection (a) of section 903 of the act, amended June thirty, one thousand nine hundred fifty-five (Pamphlet Laws 225, Act No. 70), is amended to read:

Section 903. Weight of Vehicles and Loads.—

(a) Commercial motor vehicles and truck tractors, other than those electrically operated *and transit mix vehicles*, shall not be used or operated on any highway with gross weight exceeding those specified for the several classes and weights of chassis as follows:

\* \* \* \* \*

Section 5. Section 903 of the act, amended June thirty, one thousand nine hundred fifty-five (Pamphlet Laws 225, Act No. 70), is amended by adding, after subsection (a), a new subsection to read:

Section 903. Weight of Vehicles and Loads.—

\* \* \* \* \*

(a.1) *Transit Mix Vehicles shall not be used or operated on any highways with gross weight exceeding those specified for the classes as follows:*

Class	Capacity.	Maximum Gross Weight in Pounds.
	<i>Four-wheeled (2 axles) Transit Mix Vehicles.</i>	
XR	<i>2 cubic yards and over, but less than 4 yards,</i>	33000
	<i>Six-wheeled (3 axles).</i>	
XU	<i>3½ yards and over, but less than 5 yards, ..</i>	40000
XV	<i>4½ yards and over, but less than 6 yards, ..</i>	45000
XW	<i>5½ yards and over, but less than 7 yards, ..</i>	50000
XY	<i>6½ yards and over, but less than 8 yards, ..</i>	55000
	<i>Eight-wheeled (4-axles in pairs)</i>	
XZ	<i>7½ yards and over, but less than 9½ yards,</i>	60000

\* \* \* \* \*

Section 6. Subsection (f) of section 903, amended June thirty, one thousand nine hundred fifty-five (Pamphlet Laws 225, Act. No. 70), is amended to read:

Section 903. Weight of Vehicles and Loads.—

\* \* \* \* \*

(f) No vehicle *except transit mix* shall be operated upon any highway with weight in excess of eighteen thousand (18,000) pounds upon any axle less than seventy-two (72) inches from any other axle, or with weight in excess of twenty-two thousand four hundred (22,400) pounds upon any other axle, or with weight in excess of eight hundred (800) pounds upon any one wheel for each nominal inch of width of tire on such wheel.

Section 7. Section 903 of the act is amended by adding, after subsection (f) thereof, three new subsections to read:



Section 903. Weight of Vehicles and Loads.—

\* \* \* \* \*

(f.1) *No four wheeled two-axle vehicle of transit mix type shall be operated upon any highway with a gross weight in excess of thirty-three thousand (33,000) pounds.*

(f.2) *No six wheeled three-axle vehicle of transit mix type shall be operated upon any highway with a gross weight in excess of fifty-five thousand (55,000) pounds, or in excess of the registered gross weight specified on the registration card for the vehicle to which the registration displayed has been issued.*

(f.3) *No eight or more wheeled vehicle of the transit mix type with a pair of front axles shall be operated upon any highway with a gross weight in excess of sixty thousand (60,000) pounds, or in excess of the stated gross maximum weight allowed as stated on the registration card for the vehicle on which registration is being displayed.*

\* \* \* \* \*

April 20, 1956.

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

I return herewith, without my approval, Senate Bill No. 524, Printer's No. 339, entitled "An Act amending the act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled 'An act for the protection of the public safety; regulating the use of highways, and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances, and legal claims; registration of certain vehicles and licensing the operators thereof upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are admissible as evidence; imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds,' defining transit mix vehicles and fixing registration fees and permissible weights therefor."

This bill proposes to amend The Vehicle Code of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), as amended, by establishing a separate schedule of increased gross weight limitations for transit mix vehicles. To accomplish this, the bill sets up six classes of transit mix vehicles based on carrying capacity in cubic yards rather than on the well-established basis of chassis weight. This new classification system would determine the registration fees and gross weight limitations applicable to this type of vehicle. More-

over, transit mix vehicles would be completely relieved of compliance with existing axle weight restrictions.

The vice of this proposed legislation is plainly demonstrable. The bill would sanction a clear departure from the usual and proven norms of classification and treatment of large commercial vehicles by substituting, for one type of vehicle, a classification system based on cubic yards of capacity instead of chassis weights. In so doing, the bill is disruptive of established patterns of uniformity and would undoubtedly hamper the efficient and equitable administration and enforcement of The Vehicle Code.

Similarly, by increasing the permissible gross weights for transit mix vehicles while removing all axle weight restrictions and other similar safeguards, the bill would permit additional and unwarranted strains on the highways and bridges of the Commonwealth. The Department of Highways is opposed to this legislation and informs me that if this bill were to become law thousands of additional bridges in all parts of the Commonwealth would require posting as to their maximum weight capacity.

Apart from the foregoing, this bill is subject to a more fundamental objection in that it attempts to single out a particular type of vehicle for special and privileged treatment. It therefore offends against the basic principle of equality of treatment for the same class of subjects.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 26

AN ACT

Amending the act of August nine, one thousand nine hundred fifty-five (Pamphlet Laws 323, Act No. 130), 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 appointment of solicitors by clerks of the court of quarter sessions and oyer and terminer in third and fourth class counties, and prescribing their duties.

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

Section 1. Article XIII, act of August nine, one thousand nine hundred fifty-five (Pamphlet Laws 323, Act No. 130), known as "The County Code," is amended by adding, at the end, a new section to read:

*Section 1315. Solicitors to Clerks of Courts of Quarter Sessions and Oyer and Terminer in Counties of the Third and Fourth Classes. —In all counties of the third and fourth classes, the clerk of court of quarter sessions and oyer and terminer may appoint one person as his solicitor. The solicitor shall advise the clerk of court of quarter sessions and oyer and terminer upon all legal matters that may be submitted to him, and conduct all litigation connected with the clerk's office when requested so to do by the clerk of court.*

April 20, 1956.

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

I return herewith, without my approval, Senate Bill No. 835, Printer's No. 655, entitled "An Act amending the act of August nine, one thousand nine hundred fifty-five (Act No. 130), 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 appointment of solicitors by clerks of the court of quarter sessions and oyer and terminer in third and fourth class counties, and prescribing their duties."

This bill amends the Act of August nine, one thousand nine hundred fifty-five (Act No. 130), known as "The County Code," by authorizing the clerk of quarter sessions and oyer and terminer to appoint a solicitor to advise him upon all legal matters and conduct all litigation connected with the clerk's office.

Under present law, in many counties the prothonotary, the register of wills, the recorder of deeds, the county controller and other county officers are authorized to appoint a solicitor for their respective offices so that the county solicitor, who formerly handled the legal work for those various offices, is now concerned for the most part with the legal work of the county commissioners. The law now provides that the county solicitor shall, in addition to rendering legal advice to the county commissioners, perform similar duties for each elected officer who is not authorized to appoint a solicitor or who has not appointed a solicitor although authorized to do so.

The present law further provides that in case any litigation between the county commissioners and any other elected county officer arises, the court may authorize such county officer to retain special counsel for said purposes, the fees to be paid from the county treasury. In addition, it should be noted that the district attorney and the members of his staff, who handle criminal matters, are also available to this officer.

I know of no need for this bill nor of any reason why the taxpayers should be burdened with the additional expense, particularly since the legal needs of this office are well taken care of by the provisions of The County Code.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 27

AN ACT

Amending the act of August ten, one thousand nine hundred fifty-one (Pamphlet Laws 1182), entitled "An act relating to and defining chiropractic and the right to practice chiropractic; requiring licensure; conferring powers and imposing duties upon the State Board of Chiropractic Examiners and the Department of Public Instruction; providing for the granting, suspension and revocation of licenses issued by the board; preserving the rights of existing licensees and giving them certain personal choice as to jurisdiction; conferring jurisdiction upon the court of common pleas of Dauphin County; and prescribing penalties," extending the period for application for limited examina-

tion, clarifying certain provisions thereof; establishing further standards of educational conferences and requiring board approval thereof; providing for branch office certificates and prohibiting branch office practice without such certificate.

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

Section 1. Subsection (a) of section five, act of August ten, one thousand nine hundred fifty-one (Pamphlet Laws 1182), known as the "Chiropractic Registration Act of 1951," amended June nineteen, one thousand nine hundred fifty-three (Pamphlet Laws 295), is amended to read:

Section 5. Licensing Present Practitioners.—(a) Any person of good character who has been engaged in the full-time practice of chiropractic for twenty-five (25) years or more, the last five of which have been in this State prior to the effective date of this act, and who was graduated from a legally incorporated and reputable school or college of chiropractic, shall be entitled to take a limited examination for licensure. Any person of good character who has been engaged in the full-time practice of chiropractic for less than twenty-five (25) but more than (20) years, the last five of which have been in this State prior to the effective date of this act, and possessing a general education of not less than a standard four year high school course or its equivalent, as approved by the Department of Public Instruction, and in excess of eighteen hundred (1800) hours of classroom instruction in a legally incorporated and reputable school or college of chiropractic and has been graduated therefrom, shall be entitled to take a limited examination for licensure. Any person of good character who has been engaged in the full-time practice of chiropractic for less than twenty (20) years but more than ten (10) years, the last five of which have been in this State prior to the effective date of this act, and possessing a general education of not less than a standard four year high school course or its equivalent, as approved by the Department of Public Instruction, and not less than two thousand one hundred and fifty (2150) hours of classroom instruction in a legally incorporated and reputable school of chiropractic and has graduated therefrom, shall be entitled to take a limited examination for licensure. Any person of good character who has engaged in the full-time practice of chiropractic in this State for at least one (1) year but less than ten (10) years prior to the effective date of this act, and possessing general education of not less than a standard four year high school course or its equivalent, and not less than one year of college credits in chemistry, biology and physics, as approved by the Department of Public Instruction, and not less than two thousand five hundred and fifty (2550) hours of classroom instruction in a legally incorporated and reputable school of chiropractic and has graduated therefrom, shall be entitled to take a limited examination for licensure. Application to take any limited examination under the provisions of this act for licensure shall be made in such form as may be provided by the board and must be made by the applicant before the first day of [January, one thousand nine hundred fifty-four] *July, one thousand nine hundred fifty-six.*

\* \* \* \* \*

Section 2. Subsection (b) of section 10 and sections 11, 15 and 20 of the act are amended to read:

Section 10. Examinations.—

\* \* \* \* \*

(b) For the purpose of examining applicants for licensure, the board shall hold at least two (2) [stated meetings] *examinations* each year, due notice of which shall be made public, the examinations to be held at such times and places as the board may determine. [At such meetings] *Such* examinations may be conducted by a committee of two (2) or more members of the board authorized by the board. Examinations shall be conducted in accordance with the rules and regulations prescribed by the board. No license shall be granted to any applicant unless he or she has obtained a general average of not less than seventy-five per centum (75%) of a maximum of one hundred.

Section 11. Failure in Examination.—Any applicant for licensure who shall fail in the examination authorized by this act shall have the privilege of a second examination without the payment of an additional fee. In the case of failure at any standard examination, the applicant after the expiration of six (6) months and within two (2) years, shall have the privilege of taking a second examination. In the case of failure of a limited examination as provided for in sections five and six of this act, the applicant shall have the privilege of taking a second examination at such time as the board may determine. In the event of [his] failure to pass [the] a second examination, [he] *the applicant* shall thereafter cease to practice chiropractic in this Commonwealth. The board may, in its discretion, permit an applicant to take more than two examinations, but the applicant shall be required to pay the same fee as is required for the original examination.

Section 15. Attendance at Educational Conferences.—No applicant for registration shall be granted a registration for the ensuing license year unless the applicant shall furnish to the board satisfactory evidence that he has attended not less than one two-day educational conference by the Pennsylvania Chiropractic Society, [Inc.] during the current license year, or that he has attended [an equivalent] *another chiropractic* educational conference during the same period. [An equivalent educational conference shall be one approved or ratified by the board as meeting the educational and professional requirements of the profession.] *The educational conference conducted by the Pennsylvania Chiropractic Society, or any other chiropractic organization or institution, shall be approved by the board as meeting the educational and professional requirements of the profession and shall include no less than eight (8) hours of lecture or instruction by qualified persons in two or more of the following named subjects: hygiene, sanitation, anatomy, physiology, physiological chemistry, pathology, histology, symptomatology, diagnosis, chiropractic analysis and X-Ray, ethical standards, philosophy principles and technique of chiropractic.*

It shall be the duty of the board, on or before the first day of February of each year, to mail to every person licensed under this act a notice setting forth the provisions of this section. No license shall be registered for the ensuing license year if he fails to comply with the provisions of this section: Provided, That the board may, at its

discretion, register any licensee upon subsequent compliance with the provisions of this section, or upon excusing the licensee from complying with the provisions of this section for physical or other hardship reasons.

Section 20. Display of Certificate; *Branch Office Certificates*.—  
(a) Every holder of a certificate granted by the board under the provisions of this act shall display the same in a conspicuous place in his or her office wherein such person shall practice chiropractic.

(b) *Any licensee desiring to practice chiropractic in a branch office other than the office where his certificate is displayed shall apply to and be granted by the board a branch office certificate for each such branch office or place of practice. Applications therefor shall be on a form prescribed by the board, and the applicant shall pay such fee therefor as may be fixed by the department. Branch office certificates shall be subject to the same annual registration provisions as applicable to licensure. No person shall practice chiropractic at a branch office other than the office where his certificate is displayed, unless he shall have first applied for and received a branch office certificate which shall be displayed in such branch office.*

May 18, 1956.

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

I return herewith, without my approval, House Bill No. 407, Printer's No. 1696, entitled "An Act amending the act of August ten, one thousand nine hundred fifty-one (Pamphlet Laws 1182), entitled 'An act relating to and defining chiropractic and the right to practice chiropractic; requiring licensure; conferring powers and imposing duties upon the State Board of Chiropractic Examiners and the Department of Public Instruction; providing for the granting, suspension and revocation of licenses issued by the board; preserving the rights of existing licensees and giving them certain personal choice as to jurisdiction; conferring jurisdiction upon the court of common pleas of Dauphin County; and prescribing penalties,' extending the period for application for limited examination, clarifying certain provisions thereof; establishing further standards of educational conferences and requiring board approval thereof; providing for branch office certificates and prohibiting branch office practice without such certificate."

The purpose of this bill is to extend the period for application for limited examination and to set forth standards of educational conference conducted by the Pennsylvania Chiropractic Society, or another chiropractic educational conference approved by the board, and further to provide for branch office certificates and the prohibition of branch office practice without such certificate.

The bill is defective in that it fails to attain requisite constitutional attributes.

The constitutionality of Section 15 of the Act of August ten, one thousand nine hundred fifty-one (Pamphlet Laws 1182), which section is amended by this bill, is presently under attack in the Court of Common Pleas of Dauphin County in the case of ELI Z. MARTIN

et al. v. FRANCIS B. HAAS, Superintendent of Public Instruction of the Commonwealth of Pennsylvania et al., No. 185 Commonwealth Docket, 1954, No. 2126 Equity Docket, as a result of which the court ordered and decreed that a preliminary injunction issue enjoining and restraining the defendants from enforcing, or attempting or threatening to enforce the provisions of Section 15, supra.

This section was attacked for an alleged absence of standards governing the "quality or quantity of instruction or education to be included in the educational conference by the Pennsylvania Chiropractic Society, Inc., or to be included in an equivalent educational conference approved or ratified by the Board of Chiropractic Examiners, and as such allegedly amounted to an unconstitutional delegation of legislative power, contrary to the provisions of Section 1 of Article II of the Constitution of the Commonwealth of Pennsylvania."

This bill attempts to set forth minimum standards of instructions both qualitatively and quantitatively but continues to fall short of the constitutional mandates.

The Pennsylvania Chiropractic Society is a nongovernmental private corporation entirely removed from the control, supervision or jurisdiction of the Chiropractic Registration Act.

Although the bill attempts to set forth minimum standards of instruction, the Pennsylvania Chiropractic Society would, in effect, set forth the standards of instruction, together with standards for membership in the Society and attendance at educational conferences.

The board has no authority to compel the Society or any other organization to conduct the required educational conference. In effect, the Society or any other organization by not conducting such conferences could prevent licensing of applicants and continued licensure of the present licensees. Therefore, a Society which is a private, nongovernmental institution, by its failure to act, could render ineffective, the operation of the board, a governmental agency.

This bill, for these reasons, represents an unlawful delegation of legislative power to a private organization and in its application may well violate a person's right to equal protection under the law.

In addition, this bill permits the board, at its discretion, to excuse any licensee who has not complied with the provisions of Section 15, supra, "for physical or other hardship reasons." This phrase is too vague and uncertain to meet the requirement of reasonableness and certainty with respect to the actions of an administrative body.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 28

AN ACT

Amending the act of May twenty-one, one thousand nine hundred forty-three (Pamphlet Laws 595), entitled "An act authorizing the Department of Property and Supplies to establish, operate and maintain self-sustaining restaurants, as herein defined, in the State Capitol; creating a revolving fund for this purpose, to be known as The State Restaurant Fund; providing additional duties for the State Treasurer and the Department of Health in connection therewith; and appropriating the necessary funds for these purposes," changing provisions relating to the operation of restaurants in the basement of the Main Capitol Building.

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

Section 1. Section one, act of May twenty-one, one thousand nine hundred forty-three (Pamphlet Laws 595), entitled "An act authorizing the Department of Property and Supplies to establish, operate and maintain self-sustaining restaurants, as herein defined, in the State Capitol; creating a revolving fund for this purpose to be known as The State Restaurant Fund; providing additional duties for the State Treasurer and the Department of Health in connection therewith; and appropriating the necessary funds for these purposes," is amended to read:

Section 1. (a) The Department of Property and Supplies shall have the power and it shall be its duty [whenever it shall be unable to secure a suitable tenant or tenants for the operation of a restaurant or restaurants in the State Capitol and adjacent buildings,] to establish, operate and maintain, with the approval of the Governor, such restaurant or restaurants as may be necessary for the proper accommodation of State administrative, legislative and judicial personnel and capitol visitors, and to provide, maintain, furnish, alter, repair and equip adequate quarters in the State Capitol building for this purpose.

(b) *Suitable tenants may be secured by the Department of Property and Supplies to operate all restaurants established pursuant to the provisions of this act, except restaurants established, operated and maintained in the basement of the Main Capitol Building.*

May 18, 1956.

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

I return herewith, without my approval, House Bill No. 2006, Printer's No. 1390, entitled "An Act amending the act of May twenty-one, one thousand nine hundred forty-three (Pamphlet Laws 595), entitled 'An act authorizing the Department of Property and Supplies to establish, operate and maintain self-sustaining restaurants, as herein defined, in the State Capitol; creating a revolving fund for this purpose, to be known as The State Restaurant Fund; providing additional duties for the State Treasurer and the Department of Health in connection therewith; and appropriating the necessary funds for these purposes,' changing provisions relating to the operation of restaurants in the basement of the Main Capitol Building."

This bill is subject to conflicting interpretations. By the deletion of the phrase "adjacent buildings," it apparently limits the operation of restaurants by the Commonwealth to the Capitol Building and it confines the operation of these restaurants to the Department of Property and Supplies.

I believe the Department of Property and Supplies should have authority to establish restaurants or eating facilities of various types for the convenience of Commonwealth employes in all buildings owned by the Commonwealth. The type of eating facilities should be discretionary with the department since the number of employes varies in the different buildings. The department should be able to establish



standards of service and sanitation, and, since these are all matters of administration, they should be under the jurisdiction of the executive branch of the government.

The Department of Property and Supplies is charged with the maintenance of all Commonwealth buildings. It should have the authority to supervise food services located within these buildings for the accommodation of Commonwealth employes.

This bill would defeat these objectives. I have no alternative but to veto it.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 29

AN ACT

Amending the act of January eight, one thousand nine hundred fifty-two (Pamphlet Laws 1851), entitled "An act providing for the sentencing of persons convicted of certain crimes to an indeterminate sentence having a minimum of one day and a maximum of life in certain cases; authorizing the criminal courts to impose such a sentence and certain temporary confinement in connection therewith; requiring psychiatric examinations of such persons before the imposition of such a sentence; conferring powers and imposing duties upon the Department of Welfare and the Pennsylvania Board of Parole; and providing for the parole and reparole or absolute discharge of persons so sentenced and the procedure relating thereto," regulating bail for persons charged with commission of sex crimes.

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

Section 1. The act of January eight, one thousand nine hundred fifty-two (Pamphlet Laws 1851), entitled "An act providing for the sentencing of persons convicted of certain crimes to an indeterminate sentence having a minimum of one day and a maximum of life in certain cases; authorizing the criminal courts to impose such a sentence and certain temporary confinement in connection therewith; requiring psychiatric examinations of such persons before the imposition of such a sentence; conferring powers and imposing duties upon the Department of Welfare and the Pennsylvania Board of Parole; and providing for the parole and reparole or absolute discharge of persons so sentenced and the procedure relating thereto," is amended by adding, after section two, a new section to read:

*Section 2.1. Whenever a person is charged with the commission of the crime of indecent assault, incest, assault with intent to commit sodomy, solicitation to commit sodomy, sodomy, assault with intent to ravish, or rape, or indecent exposure, and has previously been convicted of the commission of any of such crimes, he shall be denied bail for forty-eight hours until a complete psychiatric examination is made of him by two psychiatrists designated by the court and the results thereof indicate that his release by bail will not constitute a threat of bodily harm to the members of the public, or that he is not, in fact, an habitual offender or is not mentally ill. If he is found to be an habitual offender and a threat of bodily harm to the members of the public, he shall be denied bail and shall be tried for the commission*

*of the crime as soon as possible after commitment. If he is found by the psychiatrists to be mentally ill, he shall be denied bail and shall be tried for the commission of the crime as soon as possible after his release from commitment.*

May 21, 1956.

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

I return herewith, without my approval, Senate Bill No. 1002, Printer's No. 651, entitled "An Act amending the act of January eight, one thousand nine hundred fifty-two (Pamphlet Laws 1851), entitled 'An act providing for the sentencing of persons convicted of certain crimes to an indeterminate sentence having a minimum of one day and a maximum of life in certain cases; authorizing the criminal courts to impose such a sentence and certain temporary confinement in connection therewith; requiring psychiatric examinations of such persons before the imposition of such a sentence; conferring powers and imposing duties upon the Department of Welfare and the Pennsylvania Board of Parole; and providing for the parole and reparole or absolute discharge of persons so sentenced and the procedure relating thereto,' regulating bail for persons charged with commission of sex crimes."

This bill is constitutionally invalid in that it denies a prisoner bail in a non-capital case in violation of Article I, Section 14 of the Constitution of the Commonwealth.

For this reason, the bill is not approved.

GEORGE M. LEADER

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No. 30

AN ACT

Amending the act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled "An act for the protection of the public safety; regulating the use of highways, and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances, and legal claims; registration of certain vehicles and licensing the operators thereof, upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are admissible as evidence; imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds," changing in certain cases the limitations as to width of vehicles and loads allowed on the highways.

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

Section 1. Subsection (a) of section 902, act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), known as

“The Vehicle Code,” amended July twenty-five, one thousand nine hundred fifty-three (Pamphlet Laws 554), is amended to read:

Section 902. Size of Vehicles and Loads.—

(a) No vehicle, except motor buses, motor omnibuses and fire department equipment, street sweepers, and snow plows, shall exceed a total maximum width, including any load thereon, of ninety-six (96) inches, except that *vehicles loaded with sewer pipes may be of a total width of one hundred two (102) inches on highways twenty (20) feet or more in width on the improved travelable portion exclusive of shoulders, etc., and that the limitations as to size of vehicle stated in this act shall not apply to vehicles loaded with hay or straw in bulk.*

\* \* \* \* \*

Section 2. This act shall take effect immediately.

May 21, 1956.

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

I return herewith, without my approval, Senate Bill No. 470, Printer's No. 232, entitled “An Act amending the act of May one, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled ‘An act for the protection of the public safety; regulating the use of highways, and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances, and legal claims; registration of certain vehicles and licensing the operators thereof upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are admissible as evidence, imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds,’ changing in certain cases the limitations as to width of vehicles and loads allowed on the highways.”

Section 902 of The Vehicle Code prohibits the use on Pennsylvania highways of any vehicle (except fire-fighting equipment, street sweepers, snow plows and other similar machinery) whose total width exceeds ninety-six inches. This bill would authorize a total maximum width of one hundred two inches for vehicles loaded with sewer pipes when these vehicles are operated on highways twenty feet or more in width.

The stated purpose for engrafting this sort of an exception on Section 902 of The Vehicle Code is to permit a more efficient and economical loading of cement sewer pipes for motor transportation. And yet, I am advised that in order to accomplish this new loading arrangement for sewer pipes a width of one hundred five inches is

essential and that an increase from ninety-six to one hundred two inches, as proposed by this bill, will be of little or no value to the industry.

But, however that may be, my veto of this bill rests on a much broader basis. Maximum permissible widths for motor vehicles are not determined arbitrarily; they are founded on well-established safety factors and on the carrying capacity of our highway system. To create a special classification for one type of vehicle would be wholly disruptive of these essential patterns of uniformity and would undoubtedly impede the efficient and equitable administration and enforcement of the provisions of The Vehicle Code.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 31

AN ACT

To further amend clause (f) of section nine hundred three of the act, approved the first day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled "An act for the protection of the public safety; regulating the use of highways and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances, and legal claims; registration of certain vehicles and licensing the operators thereof, upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are admissible as evidence; imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds," by changing the maximum gross weight and axle load of certain commercial motor vehicles.

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

Section 1. Clause (f) of section nine hundred three of the act, approved the first day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled "An act for the protection of the public safety; regulating the use of highways and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances, and legal claims; registration of certain vehicles and licensing the operators thereof, upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are admissible as evidence; imposing upon

owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds," as added the thirtieth day of June, one thousand nine hundred fifty-five, (Act No. 70) is amended to read:

Section 903. Weight of Vehicles and Loads.—

\* \* \* \* \*

(f) No vehicle *other than a three-axle commercial motor vehicle* shall be operated upon any highway with weight in excess of eighteen thousand (18,000) pounds upon any axle less than seventy-two (72) inches from any other axle. [ , or]. *No three-axle commercial motor vehicle shall be operated upon any highway with weight in excess of twenty thousand (20,000) pounds upon any axle less than seventy-two (72) inches from any other axle. No vehicle shall be operated upon any highway with weight in excess of twenty-two thousand four hundred (22,400) pounds upon any axle seventy-two (72) inches or more from every other axle, or with weight in excess of eight hundred (800) pounds upon any one wheel for each nominal inch of width of tire on such wheel.*

Section 2. This act shall be effective immediately upon final enactment.

May 21, 1956.

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

I return herewith, without my approval, Senate Bill No. 543, Printer's No. 231, entitled "An act to further amend clause (f) of section nine hundred three of the act, approved the first day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled 'An act for the protection of the public safety; regulating the use of highways and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances and legal claims; registration of certain vehicles and licensing the operators thereof, upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are admissible as evidence; imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds,' by changing the maximum gross weight and axle load of certain commercial motor vehicles."

Subsection (f) of Section 903 of The Vehicle Code presently provides that no vehicle shall be operated upon any highway with weight in excess of 18,000 pounds upon any tandem axle, or with weight in excess of 22,400 pounds upon any other axle, or with weight in excess of 800 pounds upon any one wheel for each nominal inch of width of tire on such wheel. This bill would raise from 18,000 to 20,000 pounds the maximum tandem axle weight of three-axle commercial motor vehicles. In other words, this bill will authorize a combined axle weight of 40,000 pounds on tandem axles.

I am advised by the Department of Highways, which opposes this legislation, that 16,000 pounds for each axle of a tandem system is the weight recommended by the American Association of State Highway Officials, and that about 80% of Pennsylvania's roads and bridges are built to that standard. In 1943, Pennsylvania increased the allowable weight from 16,000 to 18,000 pounds, and it remains so to this day. Moreover, by Act No. 70, approved June thirty, one thousand nine hundred fifty-five, the maximum allowable weight on single axles was increased from 20,000 pounds to 22,400 pounds and the total gross weight of three-axle vehicles was increased from 40,000 to 47,000 pounds.

These proposed increases in tandem axle weights will require the posting of weight limitations on thousands of bridges throughout the Commonwealth and will impose a minimum of 20% more traffic wear on the State's highway system. Consequently, if this bill were to become law, the maintenance and reconstruction costs of our highways and bridges would be substantially increased.

For these reasons, the bill is not approved.

GEORGE M. LEADER

# VETOES

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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 TWENTY-SECOND DAY OF MAY, 1956.

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No. 32

## AN ACT

Amending the act of July eighteen, one thousand nine hundred seventeen (Pamphlet Laws 1043), entitled "An act establishing a public school employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon boards having the employment of public school employes; exempting annuities, allowances, returns, benefits and rights from taxation and judicial process; and providing penalties," providing credit for retirement purposes for out-of-state service in certain cases.

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

Section 1. Section 11.1 of the act of July eighteen, one thousand nine hundred seventeen (Pamphlet Laws 1043), entitled "An act establishing a public school employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon boards having the employment of public school employes; exempting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties," amended by the act of July twenty-eight, one thousand nine hundred fifty-three (Pamphlet Laws 684), is amended to read:

Section 11.1. Any contributor who has had service in states, territories or areas under the jurisdiction of the United States, besides this Commonwealth, as an employe in any public school or institution, *or who has served as an administrator, teacher or instructor in any branch of the military forces of the United States or served as an administrator, teacher or instructor for any agency or department of*

*the government of the United States, whether or not such area was under the jurisdiction of the United States, for a period of at least one year, and who (i) submits proof satisfactory to the retirement board of all or part of such service, (ii) files an affidavit, in the form prescribed by the retirement board, stating that he or she is not entitled to a deferred retirement allowance for such service, and, in the case of contributors becoming members after the effective date of this amending act, that he or she has not forfeited any vested right to a deferred retirement allowance for such service, and (iii) pays or agrees to pay, as hereinafter provided, into the School Employees' Retirement Fund, an amount equal to the contributions which would have been collected from such contributor for the period of such service, had such service been rendered in this Commonwealth, at his or her earnable salary for the school year in which application for credit for out-of-state service is made, figured at the contributor's current percentage of salary deduction, together with an additional amount as the equivalent of the contributions of the school district and the Commonwealth on account of such service, shall be credited with such years of service for retirement purposes. Such credit shall not exceed ten years, nor the number of years between the age of the contributor at the time he or she becomes a member and the age at retirement, nor the number of years of credited service in this Commonwealth.*

*Application in writing for [such] credit for service in states, territories or areas under the jurisdiction of the United States, besides this Commonwealth, as an employe in any public school or institution or as a teacher, administrator or instructor in any branch of the military forces of the United States, or for any agency or department of the Government of the United States, whether or not such area was under the jurisdiction of the United States, must be made to the retirement board within three years after the applicant becomes a member of the retirement system, or, in the case of applicants who are members on [the effective date] or before September one, one thousand nine hundred fifty-eight, of this amending act, within three years from that date.*

The contributions required to be paid for such service credit may be paid in a lump sum, or by installments, agreed upon by the contributor and the retirement board. Installment payments must begin within the period of three years from the effective date of this act, or before the contributor has completed three years of service in this Commonwealth. All such contributions shall be credited in equal amounts to the members annuity savings account and the Contingent Reserve Account if a new entrant, or the State Annuity Reserve Account Number Two if a present employe. In the event that a contributor withdraws from the retirement system, or retires on superannuation or disability retirement before such contributions are fully paid, the employe's annuity and his State Annuity shall be credited with the number of years \*out-of-state service or fractional parts thereof, for which he has purchased credit, to the date of application for retirement. In the event that a contributor separates from the retirement system otherwise than by superannuation, disability or withdrawal allowance, the amount paid by him under this section as the equivalent of the contributions of the school district and the

\* "of-out state."



Commonwealth shall be paid to him or to a designated beneficiary at his request. Any contributor who has purchased an annuity under the provisions of subsection six point one of section eight of this act may forfeit such annuity, and direct that the money paid into the School Employes' Retirement Fund therefor be applied to the contributions required by this section.

Section 2. This act shall take effect immediately.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 29, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 563, Printer's No. 1557, entitled "An act amending the act of July eighteen, one thousand nine hundred seventeen (Pamphlet Laws 1043), entitled 'An act establishing a public school employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon boards having the employment of public school employes; exempting annuities, allowances, returns, benefits and rights from taxation and judicial process; and providing penalties; providing credit for retirement purposes for out-of-state service in certain cases."

This bill proposes to extend the provisions for the obtainment of credit for retirement purposes of individuals who served as administrators, teachers or instructors in any branch of the military forces of the United States, or who served as administrators, teachers or instructors for any agency or department of the government of the United States whether or not such area was under the jurisdiction of the United States.

Existing law provides for the obtainment of credit for retirement purposes of individuals who performed service in states, territories or areas under the jurisdiction of the United States other than in this Commonwealth and is intended to secure credit for service which is recognized as that which falls within the purview of the public school employes' retirement system.

The extension proposed in the present bill, however, goes further and loses sight of the intendment of existing law.

The provisions of this bill are so vague and uncertain that the intendment of existing law may be contravened by an unwarranted and unjustifiable interpretation thereof.

The terms set forth in this bill are so broad that they invite administrative difficulties, miscomprehension and probable litigation.

For these reasons, the bill is not approved.

GEORGE M. LEADER

## AN ACT

To further amend clause seven of section one of the act, approved the eighteenth day of July, one thousand nine hundred seventeen (Pamphlet Laws 1043), entitled "An act establishing a public school employe's retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon boards having the employment of public school employes; exempting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties," by further defining "employe" and extending the time for officers and employes of the Pennsylvania State University to withdraw from the retirement system and receive reimbursement for moneys paid in.

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

Section 1. Clause seven of section one of the act, approved the eighteenth day of July, one thousand nine hundred seventeen (Pamphlet Laws 1043), entitled "An act establishing a public school employe's retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon boards having the employment of public school employes; exempting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties," as last amended by the act, approved the twenty-seventh day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1888), is hereby further amended to read as follows:

## Definitions.

Section 1. Be it enacted, etc., That 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:—

\* \* \* \* \*

(7) "Employe" shall mean any teacher, principal, supervisor, supervising principal, county superintendent, district superintendent, assistant superintendent, any member of the staff of the *Pennsylvania State University*, State Teachers' Colleges, or of the staff of the Thaddeus Stevens Trade School, or of the staff of the Pennsylvania State Oral School for the Deaf, or of the staff of the Pennsylvania Soldiers' Orphans School, or of the staff of the State Department of Public Instruction, or of the staff of the State Council of Education, or any clerk, stenographer, janitor, attendance officer, or other person engaged in any work concerning or relating to the public schools of this Commonwealth, or in connection therewith, or under contract or engagement to perform one or more of these functions: Provided, That no person shall be deemed an employe, within the meaning of this act, who is not regularly engaged in performing one or more of these functions as a full-time occupation, outside of vacation periods. In all cases of doubt the retirement board shall determine whether any person is an employe as defined in this act: And provided further,

That those employes of the Department of Public Instruction, *Pennsylvania State University*, State Teachers' Colleges, Thaddeus Stevens Trade School, Pennsylvania State Oral School for the Deaf and Pennsylvania Soldiers' Orphans School who are members of or are entitled to membership in the retirement system herein established may withdraw from the system, [and be entitled to reimbursement of moneys which they have paid in,] by so electing in writing filed with the retirement board on or before the first day of July, one thousand nine hundred and fifty-six. After said date all new employes in the Department of Public Instruction, *Pennsylvania State University*, State Teachers' Colleges, Thaddeus Stevens Trade School, Pennsylvania State Oral School for the Deaf and Pennsylvania Soldiers' Orphan School shall be members of said system, unless they elect otherwise in writing filed with the retirement board within six months after beginning their employment.

In every case where any officer or employe of the Department of Public Instruction, *Pennsylvania State University*, State Teachers' Colleges, Thaddeus Stevens Trade School, Pennsylvania State Oral School for the Deaf, Pennsylvania Soldiers' Orphan School withdraws from the system and becomes a member of the State Employes' Retirement Association after the effective date of this amendment, the Public School Employes' Retirement Board shall transfer to the State Employes' Retirement Fund from the School Employes' Retirement Fund, as amount equal to all contingent and State annuity reserves [of such officer or employe] *and the accumulated deductions to the credit of such contributor* in the School Employes' Retirement Fund, as determined by the Public School Employes' Retirement Board.

Section 2. This act shall take effect immediately.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 29, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth of Pennsylvania, with my objections, House Bill No. 879, Printer's No. 1850, entitled "An act to further amend clause seven of section one of the act approved the eighteenth day of July, one thousand nine hundred seventeen (Pamphlet Laws 1043), entitled 'An act establishing a public school employe's retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon boards having the employment of public school employes; exempting annuities, allowances, returns, benefits, and rights from taxation and private process; and providing penalties,' by further defining 'employe' and extending the time for officers and employes of the Pennsylvania State University to withdraw from the retirement system and receive reimbursement for moneys paid in."

The provisions of this bill relate primarily to the status of members of the staff of the Pennsylvania State University.

In one thousand nine hundred thirty-five, the Legislature admitted members of the teaching and non-teaching staffs of the then Pennsyl-

vania State College to membership in the State Employes' Retirement System.

This bill would include members of the staff of the said University within the definition of the term "employe" thereby providing that employes entering the service of said University subsequent to July one, one thousand nine hundred fifty-six, together with the employes of the Department of Public Instruction, the State Teachers Colleges, Thaddeus Stevens Trade School, Pennsylvania State Oral School for the Deaf and Pennsylvania Soldiers' Orphan School would become members of the Public School Employes' Retirement System, with the privilege, however, of withdrawing from the School Employes' Retirement System and becoming members of the State Employes' Retirement System if they so elect within six months after beginning their employment.

The bill is a companion bill to House Bill No. 2056, Printer's No. 1569, which proposes to amend the State Employes' Retirement System by separating the staff of the said University into two groups; that is, those entering service prior to July one, one thousand nine hundred fifty-six, and those entering service on and after July one, one thousand nine hundred fifty-six, the latter being those employes referred to in the present bill.

The proper establishment and administration of a retirement system can only be achieved where there is a well-defined system of separation and classification of persons who are eligible for membership therein.

Permitting transfers from one system to another produces misunderstandings and the resulting vacillation of members in their choice of a system impedes the proper administration of the system and weakens its foundation.

If the bill were approved, the employes of the University would be separated into two groups, each of which would represent membership in a different retirement system. One group would be given the option of choosing a system and one group would have no option.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 34  
AN ACT

To amend the act of June twenty-seven, one thousand nine hundred twenty-three (Pamphlet Laws 858), entitled "An act establishing a State employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing State employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon the heads of departments in which State employes serve; excepting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties," defining certain officers and employes of the Pennsylvania State University who enter such service prior or subsequent to July 1, 1956, as State employes.

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

Section 1. Clause (6) of section one of the act of June twenty-seven, one thousand nine hundred twenty-three (Pamphlet Laws

858), entitled "An act establishing a State employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing State employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon the heads of departments in which State employes serve; excepting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties," as last amended by the act, approved the fourteenth day of January, one thousand nine hundred fifty-two (Pamphlet Laws 1911), is further amended to read as follows:

Section 1. Be it enacted, etc., That 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:

\* \* \* \* \*

6. "State employe" shall mean any person holding a State office or position under the Commonwealth of Pennsylvania, employed and paid on a yearly or monthly basis by the State Government of the Commonwealth of Pennsylvania, in any capacity whatsoever; and shall include also any attorney, solicitor, investigator, appraiser, and clerk employed by the year or by the month in the office of any register of wills, howsoever appointed, whose compensation is actually paid from Commonwealth moneys; and shall also include all judges of the several courts of this Commonwealth whose salaries are paid by the Commonwealth, and also all clerks and secretaries employed by judges and paid on a yearly or monthly basis by such judges from moneys appropriated by the Commonwealth for such purposes; and also all persons employed by the State Board of Law Examiners of the Supreme Court of Pennsylvania; and also all present, future, or former members of the General Assembly, who receive, or have received, their salaries for regular and special sessions of the Legislature as fixed by law, and also all officers and employes of the Pennsylvania State [College] *University entering such service prior to July one, one thousand nine hundred fifty-six*, paid on a yearly or monthly basis, other than those paid wholly from Federal funds; also all employes of any single county department of health or any joint county department of health created under the Local Health Administration Law, being Act No. 315, approved August twenty-four, one thousand nine hundred fifty-one, paid on a yearly or monthly basis; and also all officers and employes of the Interstate Commission on the Delaware River Basin, and of the Pennsylvania Turnpike Commission, as of the date of entering the service of such commissions, and of the Delaware River Joint Commission and the Delaware River Joint Toll Bridge Commission, The State Public School Building Authority, The General State Authority and of The State Highway and Bridge Authority paid on a yearly or monthly basis, if the Interstate Commission on the Delaware River Basin and the Delaware River Joint Commission, the Delaware River Joint Toll Bridge Commission, the Pennsylvania Turnpike Commission, The State Public School Building Authority, The General State Authority and The State Highway and Bridge Authority shall agree to contribute and contributes to the State Employes' Retirement Fund, from time to time, the moneys

required to build up the reserves necessary for the payment of the State annuities of such officers and employes without any liability on the part of the Commonwealth to make appropriations for such purposes, and also, but only for the purposes of this act, all officers and employes of any separate independent public corporation created by act of Assembly (not including, however, any municipal or quasi-municipal corporation) who, immediately prior to their employment by such public corporation, were employes of the Commonwealth, so long as they remain officers or employes of such public corporation, if such public corporation shall agree to contribute and contributes to the State Employes' Retirement Fund, from time to time, the moneys required to build up the reserve necessary for the payment of the State annuities of such officers and employes without any liability on the part of the Commonwealth to make appropriations for such purposes. But the term "State employe" shall not include those persons defined as employes in section one, paragraph seven of the act, approved the eighteenth day of July, one thousand nine hundred and seventeen (Pamphlet Laws 1043), entitled "An act establishing a public school employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon boards having the employment of public school employes; exempting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties," as amended by section one, paragraph seven of the act, approved the twenty-first day of April, one thousand nine hundred and twenty-one (Pamphlet Laws 245), excepting such officers and employes of the Department of Public Instruction, State Teachers' Colleges, Thaddeus Stevens Trade School, Pennsylvania State Oral School for the Deaf, [and Pennsylvania Soldiers' Orphan School] *Scotland School for Veterans' Children and also all officers and employes of the Pennsylvania State University entering such service on and after July one, one thousand nine hundred fifty-six, paid on a yearly or monthly basis, other than those paid wholly from Federal funds* as are not members of or who may withdraw from the public school employes' retirement association provided by said act; and no member shall be deprived of credit for prior service as a State employe because of the fact that such service was rendered while he or she was a member of the public school employes' retirement association and that all service credited as a member of the public school employes' retirement system will be considered as having been rendered as a State employe. The rates of deduction from salaries of such officers and employes to the State Employes' Retirement Fund shall be determined by the age at which the employe began to contribute to the Public School Employes' Retirement Fund.

The term "State employe" shall also include all State officers and employes regularly employed by the year or by the month at a fixed annual or monthly compensation when the General Assembly is not in session, but, who during a legislative session, instead of a fixed annual or monthly salary or compensation are paid upon a per diem basis or by a fixed salary or compensation from the legislative session, or

who receive no fixed annual or monthly salary but are paid only upon a per diem basis during legislative sessions and subsequent thereto.

Employes of the respective institutions acquired by the Commonwealth from counties, cities, wards, boroughs, townships, institution districts and other political subdivisions, that are actually used as State mental hospitals under the provisions of the act, approved the twenty-ninth day of September, one thousand nine hundred thirty-eight (Pamphlet Laws 53), or its amendments, who, [as of the effective date of this act, are contributors or who,] on or before the thirty-first day of May, one thousand nine hundred fifty-two, [become] *became* contributors to this fund shall for the purposes of this act be deemed to have been "State employes" from the time they first entered the employe of such institution, even though the same may have been prior to the acquisition of the institution by the Commonwealth, if such employe shall pay to the retirement association a sum equal to all the back payments which such employe would have made had he or she become a member of the retirement association at the time he or she was first employed by such institution. Such back payments may be spread over a period of years by having the regular payroll deduction of such employe increased by not less than one-third of the amount thereof, which deduction increase, shall be credited to such back payments owing, and shall be continued until the amount thereof shall be paid in full, unless such member is retired under the provisions of this act before such back payments have been completed. Any such deduction increase may be anticipated in full by the member at any time, and shall be anticipated in full at the time of retirement before a retirement allowance is granted. If not so anticipated, then the member's annuity shall be calculated on the total accumulated deductions standing to his credit and his State annuity shall be reduced by an amount equivalent to the reduction which occurs in the member's annuity due to the amount of the back payments not so anticipated.

The term "State employe" shall also include State officers and employes regularly employed on a per diem or hourly basis, or partly at a fixed annual or monthly salary and partly on a per diem or hourly basis. Regular employment shall not be construed to include employment of less than one hundred days or seven hundred fifty hours in any year. In all cases of doubt the retirement board shall determine whether any person is a State employe as defined in this paragraph, and its decision shall be final.

Section 2. The provisions of this act shall become effective upon final enactment.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 29, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 2056, Printer's No. 1569, entitled "An act to amend the act of June twenty-seven, one thousand nine hundred twenty-three (Pamphlet Laws 858), entitled 'An act establishing a State employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing State employes, defining the uses and purposes thereof and the manner of

payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon the heads of departments in which State employes serve; excepting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties,' defining certain officers and employes of the Pennsylvania State University who enter such service prior or subsequent to July one, one thousand nine hundred fifty-six, as State employes."

This bill is a companion bill to House Bill No. 879, Printer's No. 1850, which proposes to amend the Public School Employes' Retirement System by providing for an option to be exercised by certain employes, primarily of the Pennsylvania State University, who enter service of such University on and after July one, one thousand nine hundred fifty-six. Such employes could choose to become members in either the Public School Employes' Retirement System or the State Employes' Retirement System.

The present bill proposes to separate the staff of the said University into two groups, that is, those entering service prior to July one, one thousand nine hundred fifty-six, and those entering service on and after July one, one thousand nine hundred fifty-six. Those in the latter group are the individuals referred to in House Bill No. 879, Printer's No. 1850, as aforesaid.

This bill would permit the exercise of the option referred to above.

Since the companion bill is not approved, no purpose can be served by the approval of this bill.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 35

AN ACT

Amending the act of August nine, one thousand nine hundred fifty-five (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," providing for special enrollments for determining population of counties for purposes of changing classification.

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

Section 1. Section 211, act of August nine, one thousand nine hundred fifty-five (Pamphlet Laws 323), known as "The County Code," is amended to read:

Section 211. Ascertainment, Certification and Effect of Change of Class.—(a) The classification of counties shall be ascertained and fixed according to their population by *special enrollment, as herein provided, or by reference from time to time to the last preceding decennial United States census, [deducting therefrom] not including* the number of persons residing on any lands that have been ceded to the United States.

(a.1) *At any time not less than one year before the time fixed for taking a decennial census of the United States, whenever the owners of ten per centum of the assessed valuation of the real estate of any*



county shall present their petition to the court of quarter sessions, averring that the county has attained a population entitling it to an advance in classification and shall give such security as the court may prescribe for the payment of all costs and expenses which may be incurred in any procedure had upon said petition, the court shall appoint a commissioner to perform the duties hereafter prescribed.

The said commissioner shall make an enrollment of the inhabitants of such county and make report thereof to the court at the next ensuing term. Upon the filing of the report, the same shall be confirmed nisi, which confirmation shall become absolute unless excepted to within thirty days thereafter, during which time notice of the said filing and confirmation shall be advertised in a newspaper of general circulation once a week for three weeks. If exceptions are filed to the report within the said thirty days, the court upon consideration thereof shall confirm the report or modify the said finding. After final confirmation, the clerk of the court shall certify to the county commissioners and to the Governor the population of the county as shown by said proceedings. The costs and expenses of the proceedings, including a reasonable fee for the commissioner and attorney and compensation of necessary assistants, shall be paid by the petitioners or by the county or partly by each as the court shall direct.

(b) Whenever it shall appear by any such census or special enrollment, that any county has attained a population entitling it to an advance in classification, or that a county has heretofore or hereafter decreased in population so as to recede in classification, as herein prescribed, it shall be the duty of the Governor, under the great seal of this Commonwealth, to certify that fact accordingly, to the board of county commissioners on or before the first day of October of the year succeeding that in which the census or special enrollment was taken or as soon thereafter as may be, which certificate shall be forwarded by the commissioners to the recorder of deeds and be recorded in his office.

(c) Changes of class ascertained and certified as aforesaid shall become effective on the first day of January next following the year in which the change was so certified by the Governor to the county commissioners but the salaries of county officers shall not thereby be increased or decreased during the term for which they shall have been elected. In the municipal election following such certification of change of class and preceding the effective date of such change, the proper number of persons shall be elected to fill any elective office which will exist in the county by the change of classification certified. No election shall be held for any office which will be abolished as a result of such change of classification.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 31, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 1092, Printer's No. 702, entitled "An act amending the act of August nine, one thousand nine hundred fifty-five (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,' pro-

viding for special enrollments for determining population of counties for purpose of changing classification.”

This bill would amend The County Code by providing for special enrollments for the determination of the population of counties of the third, fourth, fifth, sixth, seventh and eighth classes so as to make it possible for certain counties to establish their right to go into a different class by reason of increased population before the date of the decennial United States census.

The bill provides that such redetermination of population shall be initiated by the petition of the owners of ten per centum of the assessed valuation of the real estate of any county addressed to the Court of Quarter Sessions. It provides further for the appointment of a commissioner by the said court to make such enrollment.

The method prescribed in the act for the redetermination of population is vague, indefinite and cumbersome. It does not provide for uniformity in the method of reenrollment in various counties. Furthermore there is no assurance that a special enrollment would represent the actual population of the county.

The provision that such reenrollment shall be made upon the petition of the owners of ten per cent of the valuation of the real estate in the county is undemocratic and discriminates between large property owners, small property owners and persons who own no property. The latter will be completely disfranchised so far as their right to petition for a reenrollment is concerned. A small segment of the population could set in motion the reenrollment procedure.

It would be much better to await another meeting of the General Assembly to work out a bill that would adequately and efficiently accomplish the purposes intended by democratic processes than to perpetuate the objectionable and ineffective procedure set up in this bill.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 36

AN ACT

Prohibiting the serving and regulating the selling of imported wild rabbit; and prescribing penalties.

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

Section 1. No person shall serve, or offer to serve, at any public eating place, wild rabbit imported from any country outside the territorial limits of the United States.

Section 2. No person shall sell wild imported rabbit to the public, unless adequate notice is given the public that the rabbit is imported, and that it is wild rabbit, by a printed tag, stating the same upon each imported wild rabbit sold.

Section 3. Every person, firm or corporation and every officer, agent, servant or employe of the person, firm or corporation who knowingly violates the provisions of this act shall, upon summary

conviction, be sentenced to pay a fine of fifty dollars (\$50), or to undergo imprisonment for not more than ten days, or both. Each instance in which imported wild rabbit is knowingly sold in violation to this act shall constitute a separate offense.

Section 4. All fines collected for violations of this act shall be paid into the State Treasury through the Department of Revenue.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 31, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 897, Printer's No. 1622, entitled "An Act prohibiting the serving and regulating the selling of imported wild rabbit; and prescribing penalties."

This bill prohibits any public eating place from serving or offering to serve wild rabbit imported from any country outside the territorial limits of the United States.

It also provides that wild imported rabbit sold to the public must be tagged as such.

The prohibition against serving such rabbit in public eating places would have to rest upon the police power, since public health is not involved.

Such extension of the police power is of highly doubtful constitutionality, particularly when no question of public welfare is raised and the apparent purpose is to achieve an economic result.

As originally introduced this bill permitted the serving of imported rabbit if it was identified as such on the menu. This established a justification for the legislation, since it afforded a protection for the public against fraud or misrepresentation. This element was removed by amendment and the flat prohibition substituted, thereby creating the constitutional question.

There is also some doubt as to this bill's application to United States territories and possessions, due to language ambiguities.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 37

AN ACT

Providing for the payment of the salary, medical and hospital expenses of custodial employes of State penal and correctional institutions, who are injured in the performance of their duty, and providing that absence during such injury shall not reduce any usual sick leave period.

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

Section 1. Any person designated as a custodial employe of a State penal or correctional institution under the Bureau of Correction of the Department of Justice, who is injured in the performance of his duties and, by reason thereof, is temporarily incapacitated from performing his duties, shall be paid by the Commonwealth of Penn-

sylvania his full rate of salary until the disability arising therefrom has ceased. All medical and hospital bills incurred in connection with any such injury shall be paid by the Commonwealth of Pennsylvania. During the time salary for temporary incapacity shall be paid by the Commonwealth of Pennsylvania, any workmen's compensation received or collected for such period shall be turned over to the Commonwealth and paid into the treasury thereof, and if such payment shall not be so made, the amount so due the Commonwealth shall be deducted from any salary then or thereafter becoming due and owing. The diseases of the heart and tuberculosis of the respiratory system contracted or incurred by any such custodial employe of a State penal or correctional institution after four years of continuous service as such, and caused by extreme overexertion in times of stress or danger or by exposure to heat, smoke, fumes or gases arising directly out of the employment of any such employe, shall be compensable in accordance with the terms hereof and, unless any such disability shall be compensable under the compensation laws as having been caused by accidental injury, such disability shall be compensable as occupational disease disabilities are presently compensable under the compensation laws of this Commonwealth.

Section 2. No absence from duty of any custodial employe of a State penal or correctional institution under the Bureau of Correction of the Department of Justice by reason of any such injury shall in any manner be included in any period of leave allowed the employe by law or by regulation.

Section 3. This act shall take effect June 1, 1956.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 31, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1202, Printer's No. 1708, entitled "An Act providing for the payment of the salary, medical and hospital expenses of custodial employes of State penal and correctional institutions, who are injured in the performance of their duty, and providing that absence during such injury shall not reduce any usual sick leave period."

This bill provides that:

"Any person designated as a custodial employe of a State penal or correctional institution under the Bureau of Correction of the Department of Justice who is injured in the performance of his duties and by reason thereof is temporarily incapacitated from performing his duties shall be paid by the Commonwealth of Pennsylvania his full rate of salary until the disability arising therefrom has ceased. All medical and hospital bills incurred in connection with any such injury shall be paid by the Commonwealth of Pennsylvania. During the time salary for temporary incapacity shall be paid by the Commonwealth of Pennsylvania any workmen's compensation received or collected for such period shall be turned over to the Commonwealth and paid into the treasury thereof and if such payment shall not be so made

the amount so due the Commonwealth shall be deducted from any salary then or thereafter become due and owing. The diseases of the heart and tuberculosis of the respiratory system contracted or incurred by any such custodial employe of a State penal or correctional institution after four years of continuous service as such and caused by extreme over-exertion in times of stress or danger, or by exposure to heat, smoke, fumes or gases arising directly out of the employment of any such employe shall be compensable in accordance with the terms hereof, and unless any such disability shall be compensable under the compensation laws as having been caused by accidental injury, such disability shall be compensable as occupational disease disabilities are presently compensable under the compensation laws of this Commonwealth."

It thus provides special privileges for custodial employes of a single bureau of an administrative department which are denied to other State employes whose employment is more or equally as hazardous. The bill covers both penal and correctional institutions and refers to employes designated as "custodial employes," but does not define the term. The proper test, however, would be the nature of the duties rather than the designation made of the employes.

It is within the prohibition of Article III, Section 7, which forbids the passing of any local or special law.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 38

AN ACT

Relating to the practice of Ophthalmic Dispensing; providing for the licensure and registration of Dispensing Opticians; authorizing the issuance of certificates to registered, qualified Ophthalmic Dispensers; creating a State Board of Examiners for Dispensing Opticians to determine the respective qualifications of applicants, and defining specific powers and duties thereof; providing for penalties for violations of the provisions thereof; and providing for appeals to Court.

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

Section 1. Short Title.—This Act shall be known and may be cited as "Opticians Law."

Section 2. Definition of Terms.—

Ophthalmic Dispenser.

An Ophthalmic Dispenser is one who is engaged in the practice of ophthalmic dispensing within the meaning of the provisions of this act and shall be defined as a person who is skilled in the art of preparing and dispensing spectacle lenses, eye-glasses and appurtenances thereto, to the intended wearers thereof, on written prescriptions from physicians or optometrists duly licensed to practice their profession, and in accordance with such prescriptions interprets, measures, adapts, fits and adjusts such spectacle lenses, eye-glasses and

appurtenances thereto, to the human face, for the aid or correction of visual or ocular anomalies of the human eyes. The services and appliances relating to ophthalmic dispensing shall be dispensed, furnished or supplied to the intended wearer or user thereof only upon prescription issued by a physician or optometrist, but duplications, replacements, reproductions or repetitions may be supplied without prescription, and such act shall likewise be construed to constitute the practice of ophthalmic dispensing the same as if performed on the basis of an original written prescription. No persons shall sell, dispense, supply or offer ophthalmic lenses, spectacles or eye-glasses, to intended wearers or users thereof, without prescriptions properly authorized by physicians or optometrists duly licensed to practice their professions in the Commonwealth of Pennsylvania or any other state or commonwealth: Provided, however, nothing in this act shall be construed to apply to the sale of toy glasses or goggles consisting of plano-white, plano-colored lenses, magnifiers, loupes, binoculars or ordinary colored glasses, or the sale of ready-made glasses or spectacles with simple magnifications only when sold as merchandise at established places of business.

The word "Board," as used in this act, means the State Board of Examiners for Ophthalmic Dispensers.

### Section 3. General Powers of the State Board of Examiners for Ophthalmic Dispensers.—

There is hereby created a State Board of Examiners for Ophthalmic Dispensers (hereinafter called the "Board"), which shall be composed of five members who shall be appointed by the Governor, four of whom shall be Ophthalmic Dispensers and the fifth member shall be engaged in the optical industry. The four Ophthalmic Dispensers shall have been engaged in the practice of ophthalmic dispensing in the Commonwealth of Pennsylvania for not less than five years, all of whom shall be residents of the Commonwealth of Pennsylvania, and also shall be persons of recognized ability and honor and who may be appointed by the Governor from a list, consisting of Ophthalmic Dispensers as above qualified to be furnished by the Pennsylvania Opticians Association, within thirty days after any vacancy occurs in the membership of said Board. Subsequent to the enactment of this act as law, said submitted list shall consist of properly qualified ophthalmic dispensers. All Board members shall be appointed for terms of one, two, three, four and five years, respectively.

Each appointee within thirty days after receipt of his commission shall take, subscribe and file in the office of the Secretary of the Commonwealth the oath or affirmation prescribed by law.

A vacancy resulting from any cause other than the expiration of a term shall be filled for the unexpired term by an appointment by the Governor in the same manner as an original appointment is to be made.

Each member of the Board shall receive the sum of \$15.00 a day for each regular examination conducted by the Board, and each member of the Board shall also be compensated for actual expenses incurred in the discharge of his official duties.

The Governor may remove any member for cause, upon notice, and opportunity to be heard.

#### Section 4. General Powers of the Board.—

(a) The Board shall have the following powers pertaining to the qualifications and examinations of Ophthalmic Dispensers:

1. To provide for, to regulate and to issue a license as an Ophthalmic Dispenser to any person who pays a fee as provided in section six of this act and who submits evidence, under oath, to the Board;

That he is at least 21 years of age, a citizen of the United States, of good moral character, not addicted to the use of intoxicating liquors or narcotic drugs, and is a graduate of a four-year high school, or its equivalent, approved by the Department of Public Instruction, who has not knowingly been and is not now a member of any organization that advocates the overthrow of the government of the United States or this Commonwealth by force or violence or unconstitutional means, and who has not knowingly been and is not now a member of the Communist party, or advocates the political tenets thereof, and who has obtained the required education in an approved school of opticianry, or who has worked or been in the employ of and under the personal supervision of a licensed Ophthalmic Dispenser, optometrist or physician for a period of not less than three years: Provided, however, That the said applicant shall have successfully passed the examination herein provided.

2. To investigate, determine the acceptability and to approve or disapprove institutions of learning of this Commonwealth, and all other states and countries, for the education of students desiring to be licensed to practice as dispensing opticians, and to revoke approvals where such institutions of learning no longer are deemed proper.

3. The subject matter of all examinations shall be confined to such knowledge as is essential to practice as an Ophthalmic Dispenser and shall show proficiency in the following subjects:

1. Theory of ophthalmic lenses surface grinding,
2. Prescription interpretation,
3. Applied ophthalmic optics,
4. Edge grinding,
5. Measurement of face,
6. Furnishing, fitting and adjusting glasses and frames to the face.

(b) The Board shall have the following additional powers which shall apply to Ophthalmic Dispensers:

1. To prescribe the subject material, manner, time and place of examination and the filing of applications for examinations and registrations, and to supervise and provide for the conduct of the examinations, to make written reports of such examinations, which reports shall be filed with the Department of Public Instruction, and to certify to the Department of Public Instruction such applicants as successfully passed such examinations.

(c) The Board shall be required to grade the examinations returned by candidates, and shall keep them for at least one year if said applicant obtained a grade of less than seventy-five per centum (75%). Any unsuccessful candidate may, upon written request to the Board, see his graded paper.

(d) To accept and endorse as valid in this Commonwealth licenses to practice as an Ophthalmic Dispenser issued by other states and

countries upon the payment of such fees as prescribed according to law for applicants in this Commonwealth: Provided, That the standards of such other state and country are, in the opinion of the Board, equal to the standards of this Commonwealth: Provided further, That such other state or country shall recognize and endorse as valid in such state or country licenses issued by this Commonwealth.

(e) To investigate and conduct hearings and to discipline and prosecute those guilty of illegal practices.

(f) To suspend and revoke, by majority action of the entire Board, the license or registration of any licensee who has been convicted of a crime or misdemeanor involving moral turpitude, fraudulent or unlawful practices, or convicted of practices of misleading representations, unethical conduct, false, misleading or deceptive advertising as respects the skill of the operator, the quality of materials used or methods practiced, or of habitual intemperance, or who is addicted to the use of narcotic drugs, or is insane or adjudged mentally incompetent, and to reinstate licenses and registrations in any cases where a majority of the entire Board shall determine the same to be just and proper; and providing furthermore, that the Board, by majority action of the entire Board, shall be empowered to suspend and revoke the license and registration of any licensee who has been found, after due and proper investigation and hearing, to have been or presently is a member of any organization that advocates the overthrow of the Government of the United States or this Commonwealth by force or violence or other unconstitutional means and has been or is presently a member of the Communist party or advocates the political tenets thereof.

(g) To provide for, regulate and require all persons licensed in accordance with the provisions of this act, to register annually with the Board, to prescribe the form of such registrations, to require as a condition precedent to such annual registration the payment of such annual registration fee as shall be fixed according to this act, to issue annual registration certificates to such persons, and to suspend or revoke the license or registration of such persons as fail, refuse or neglect to register annually or pay such fee. The Department of Public Instruction shall be required to publish, annually, a list of the persons registered for that particular year.

(h) To keep a record, and it shall be the duty of the Board so to do of all licenses and registrations issued by the Board and to prescribe the form of such record.

(i) To keep minutes and records of all its transactions and proceedings.

(j) To adopt, promulgate and enforce such rules and regulations as may be deemed necessary and proper by the Board to carry into effect the powers hereby conferred.

(k) To require every holder of a certificate of registration to conspicuously display the same in his establishment.

#### Section 5. Licensing of Present Ophthalmic Dispensers.—

The Board shall license, without examination, as Ophthalmic Dispensers all persons over the age of twenty-one years who, at the time of taking effect of this act, were actually engaged in the ophthalmic



optical field and who have been engaged continuously as such for a period of not less than one year next preceding such time, six months of which immediately preceding such effective date shall have been within this Commonwealth, whose application shall be made to said Board accompanied by a fee of twenty-five dollars (\$25.00) for Ophthalmic Dispensers. All applications for licenses under the provisions of this section shall be made within one year after the enactment of this law. The provisions of this section shall not apply to any one engaged in the ophthalmic optical field who, at the time of enactment of this act, is a member of the Armed Forces of the United States of America. Such person upon discharge from the Armed Forces of the United States of America shall be entitled to be licensed without examination provided he or she shall have been, prior to his or her entry into the Armed Forces of the United States of America, actually engaged for a period of one year prior thereto as an Ophthalmic Dispenser: And provided further, That such person shall within one year after his or her discharge from the Armed Forces of the United States of America make written application to the Board for license without examination.

Section 6. Organization of Board; Right of Subpoena.—

The Board shall hold at least two meetings each year and may hold such other meetings as it may deem advisable. The time and place of all such meetings shall be determined by the Board.

The Board shall elect a president and a secretary from its membership, and shall have a common seal of which all courts of this Commonwealth shall take judicial notice. Its president or secretary may issue subpoenas to compel attendance of witnesses to testify before the Board, and administer oaths in taking testimony in any matter pertaining to its duties, which subpoenas shall issue under the seal of the Board and shall be served in the same manner as subpoenas issued out of the courts of this Commonwealth, and every person who refuses or neglects to obey the command of such subpoenas or who after appearing refuses to be sworn and testify shall, in either event, be liable to a penalty in accordance with the provisions of existing laws of this Commonwealth.

Section 7. Fees.—

Every candidate prior to being admitted to an examination shall be required to pay an examination fee or fees as follows:

Ophthalmic Dispenser .....	\$25.00
All licenses granted without examination .....	25.00
Annual Registration Ophthalmic Dispenser .....	5.00
Reinstatement of all lapsed licenses .....	10.00

Any person licensed by said Board who shall fail to renew his license within six months after the date of its expiration and shall thereafter desire to renew such license shall pay to the Board Ten (\$10.00) Dollars for such renewal and, in addition thereto, shall be required to pay a penalty equal to the sum of the lapsed annual registration fees not exceeding five years: Provided moreover, That before granting a license to any applicant who has not held a license issued by said Board within five years of the date of application, said Board shall require such applicant to pass a standard examination satisfactory to said Board and to pay to the Board the lapsed fee required of original applicants.

### Section 8. Disposition of Fees.—

All fees received by said Board for examination, or from any other source, shall be transmitted to the proper authority in accordance with provisions of the Administrative Code, as amended.

### Section 9. Requirements of Persons, Partnerships, Associations or Corporations.—

From and after the enactment of this Act as law, it shall be unlawful for any person, partnership, association or corporation to engage in or carry on the business of ophthalmic dispensing or act in the capacity of Ophthalmic Dispenser within this Commonwealth without first having been registered with the Board to carry on such business, which registration shall require such person, partnership, association or corporation to certify to the Board the name of the licensed Ophthalmic Dispenser who has been employed to practice ophthalmic dispensing by said person, partnership, association or corporation.

### Section 10. Branch Offices Not Prohibited.—

Nothing in this Act shall be construed as preventing the establishment of a branch office or offices by a licensee, provided the licensee shall secure from the Board a copy of his or her license or registration and keep the same prominently posted in each such branch or branches and: Provided further, That the practice of ophthalmic dispensing in said branch shall be performed by a licensed Ophthalmic Dispenser, or by an employe under the personal direction of an Ophthalmic Dispenser on the premises at the time the service is rendered. The Board shall not require any additional fee for the furnishing of copies of such license or registration.

### Section 11. Persons Excluded.—

The provisions of this Act shall not apply to physicians or surgeons practicing under authority of a license issued under the laws of this Commonwealth for the practice of medicine or surgery nor to any employe or other person acting under the instruction or supervision of such licensed physician, nor shall the provisions of this act apply to optometrists practicing under authority of a license issued under the laws of this Commonwealth for the practice of optometry or to any employes or other person acting under the instruction or supervision of such licensed optometrist.

### Section 12. Unlawful Acts.—

(a) Upon the enactment of this Act as law, it shall be unlawful—

1. To advertise or employ displays in such a manner as to suggest, infer or indicate that persons licensed under the act are qualified to give professional advice concerning eye care or to advertise in any manner that would tend to mislead or deceive the public, or that would, directly, indirectly or by inference, distinguish between or discriminate against others in the eye care field, or to advertise any acts or services other than those permitted to be performed by ophthalmic dispensers in accordance with this act.

2. To practice as an Ophthalmic Dispenser or to hold himself or herself out as a practitioner of or entitled or authorized to practice as an Ophthalmic Dispenser or to assume any title of "Ophthalmic Dispenser" or other letters or titles in connection with his or her name,

which in any way represent him or her as being engaged in the practice of ophthalmic dispensing or authorized so to do unless he or she has been duly licensed, registered and authorized to engage in such practice under the provisions of this act.

3. To use the word "licensed" or "registered" or any of their synonyms or any abbreviations of "Ophthalmic Dispenser" for the purposes of advertising in reference to the practice of ophthalmic dispensing.

4. To practice as an Ophthalmic Dispenser unless his or her license and annual registration are displayed in his or her regularly established place of business.

5. To directly or indirectly employ, hire, procure, induce, aid or abet a person not licensed to practice ophthalmic dispensing in this Commonwealth to so practice.

### Section 13. Penalties.—

Any person, partnership, association or corporation violating any provisions of this Act shall be guilty of a misdemeanor, and, upon conviction thereof, may have his or her license or its registration suspended or revoked, and shall be sentenced to pay a fine not exceeding Five Hundred Dollars (\$500.00), or to suffer imprisonment not to exceed six months, or both, in the discretion of the court.

### Section 14. Grounds for Refusing, Suspending or Revoking a License or Registration. —

The Board may refuse or may suspend or revoke a license to practice as an Ophthalmic Dispenser or the registration of any person, partnership, association or corporation upon proof, to the satisfaction of the Board, that the holder of such license or registration—

(a) Has been adjudged insane or mentally incompetent, or

(b) Habitually uses drugs or intoxicants, or

(c) Has been convicted of crime involving moral turpitude, or

(d) Has been or is presently a member of any organization that advocates the overthrow of the Government of the United States or this Commonwealth by force or violence or other unconstitutional means, and who has been and is presently a member of the Communist party or advocates the political tenets thereof, or

(e) Shall have presented to the Board any diploma, license or certificate that shall have been signed or issued unlawfully or under fraudulent representations or obtains or shall have obtained a license to practice in this Commonwealth through fraud of any kind, or

(f) Has been convicted of a violation of any Federal or State law relating to narcotic drugs, or

(g) Has violated any of the provisions of section twelve of this act.

### Section 15. Hearing on Suspensions and Revocations of Licenses and Registration and Providing for Appeals.—

Before the license of any licensee or any registration is suspended or revoked by the Board, a written copy of the complaint made shall be furnished to the licensee or registrant against whom the same is directed, and an opportunity shall be afforded him or her to be heard

before the Board personally and by counsel. At least ten days' written notice of the time and place of such hearing shall be given the licensee or registrant, by registered mail, addressed to the post office address as shown on the annual registration or other record or information in possession of the Board.

Any person aggrieved by the action of the Board in suspending or revoking a license or registration or by any other action of the Board, which is alleged to be improper, unreasonable, or unlawful, may appeal from such action of the Board, in writing, to the Court of Common Pleas of Dauphin County.

Appeals from suspensions and revocations of licenses and registrations must be taken within thirty days after such suspension or revocation concerning which action immediate notice shall be given the licensee or registrant by registered mail addressed as above.

Appeals shall be taken by serving upon the secretary of the Board written notice of such appeal together with reasons for such appeal. Such service shall be made either by filing the said notice of appeal in the office of the Board or, in the event that a hearing has been had, by delivering the same to the deputy, whether general or special, before whom the hearing in the case was had.

Within thirty days after the service of such notice of appeal, the Board shall file, with the prothonotary of the said court of common pleas, a transcript of the records of the proceedings, if any, in its office duly certified over the seal of the Board, which record shall include all papers on file with the Board affecting or relating to the inquiry or investigation, if any, conducted by the Board, and all the evidence taken at the hearing, if any, including the certified stenographic notes of testimony. Notice of the filing of the said transcript with the term and number to which filed shall be forthwith given by the Board to the licensee or registrant and as well to the party or parties, if any, upon whose complaint the proceedings before the Board were instituted.

Either party may appeal from the decision of the Court of Common Pleas of Dauphin County to the Superior Court of the Commonwealth of Pennsylvania, but not later than thirty days after the entry of the decree by the said Court. Such appeals shall be taken and prosecuted in the same manner and with like effect as is provided by law in other cases of appeal to the Superior Court, and the records certified to the Superior Court shall contain all that was before the Court of Common Pleas. The decree of the Superior Court shall be final and conclusive.

#### Section 16. Records to be Public and be Received in Evidence.—

The records of the Board shall be public and open to inspection during business hours. Copies thereof duly certified by the secretary of the Board, or any of his deputies, shall be received in evidence in all courts and elsewhere.

#### Section 17. Provisions Severable.—

If any clause, sentence, paragraph or part of this act be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act, and it is hereby declared to be the legislative intent that this act would have been adopted had such invalid provision not been included therein.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 31, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 188, Printer's No. 736, entitled "An act relating to the practice of Ophthalmic Dispensing; providing for the licensure and registration of Dispensing Opticians; authorizing the issuance of certificates to registered, qualified Ophthalmic Dispensers; creating a State Board of Examiners for Dispensing Opticians to determine the respective qualifications of applicants, and defining specific powers and duties thereof; providing for penalties for violations of the provisions thereof; and providing for appeals to Court."

Whenever a board or commission is to be established independently or under a department, the establishment thereof must be accomplished by amendment to The Administrative Code of 1929.

This bill has no companion bill for such an amendment which would serve the purposes aforesaid.

Although the bill provides that examination reports are to be filed with the Department of Public Instruction; that successful applicants be certified to said Department; that the said Department must approve an equivalent to a four-year high school graduation; and that the said Department publish annually a list of persons who have registered, no bill exists which creates or establishes this board as a departmental board in the Department of Public Instruction as a result of which the said Department may not be utilized for the purposes set forth in the provisions of this bill.

The bill defines an Ophthalmic Dispenser as one who may adapt and fit eyeglasses to the human face, functions which are presently confined exclusively to optometrists and physicians and the practice of which by persons other than optometrists or physicians is a violation of the law subject to penalties imposed thereby.

The bill provides that the Governor must appoint an Ophthalmic Dispenser within thirty days after any vacancy occurs in the membership of the board, a provision which does not take into consideration the administrative difficulties which are usually present such as confirmation by the Senate; any extraordinary occurrence which may exist, and furthermore such provision violates Article IV, section 8 of the Pennsylvania Constitution which only authorizes but does not mandate that the Governor make an appointment.

Although provision is made for payment to members of the Board for each regular examination conducted, there is no provision for payment for attendance of board meetings at any other time.

There is no provision that an applicant be a resident of this Commonwealth as a requisite to licensure.

The bill further provides, as an alternate requisite for licensure, employment by an applicant by and under the supervision of a licensed Ophthalmic Dispenser for a period of not less than three years, although such applicant is not exempted from prosecution if he performs any of the prohibited practices specified in the bill during such employment.

The bill provides that it shall be unlawful to advertise in any manner that would tend to mislead or deceive the public, the implication of which is that advertisement in any manner is lawful so long

as it is not deceptive or misleading. This provision would seem to contradict the provisions set forth in Senate Bill No. 316, Printer's No. 372, of the 1955 Sessions, approved by the Governor, Act No. 544, which prohibits the advertisement of price in any manner whatsoever of frames, mountings, lenses, spectacles or eyeglasses used for ophthalmic purposes by any person, firm or corporation which engages in the retail sale or dispensing of the same. The provisions in the present bill could conceivably be interpreted as permitting Ophthalmic Dispensers to advertise price of the listed items.

The bill provides that, in cases of appeal from the decisions of the board, a written notice of such appeal may be served upon the deputy attorney general before whom the hearing in the case was had in lieu of service upon the board. There is no justification for such a provision and the extension of service provision to one who is not an agent of the board is unwarranted and undesirable and is an apparent violation of Rule 4 of the Pennsylvania Rules of Civil Procedure.

Section 13 of the bill provides that a license may be suspended or revoked upon the conviction of a licensee who has violated provisions of the act. This section appears to give the court the right to suspend or revoke the license as a penalty but said provision is not clear.

No evidence has been submitted that would demonstrate that the health and welfare of the public would be better served by such a licensing law and in the absence thereof, the expenditures which must necessarily result if this bill were enacted into law appears to be unwarranted.

The Department of Public Instruction and the State Board of Optometrical Examiners are in opposition to the provisions of the bill.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 39

AN ACT

Amending the act of June twenty-three, one thousand nine hundred thirty-one (Pamphlet Laws 932), entitled "An act relating to cities of the third class; and amending, revising, and consolidating the law relating thereto," fixing minimum salaries for paid firemen in certain cities.

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

Section 1. Section 2102, act of June twenty-three, one thousand nine hundred thirty-one (Pamphlet Laws 932), known as "The Third Class City Code," reenacted and amended June twenty-eight, one thousand nine hundred fifty-one (Pamphlet Laws 662), is amended to read:

Section 2102. Paid Bureau; Election of Officers and Companies.—When a paid fire bureau is organized by any city, the council may provide, by ordinance, for the election or appointment of the officers and companies belonging thereto, in accordance with civil service provisions where applicable. *The minimum annual salary or compensation to be paid the officers and firemen by any city having a popula-*

*tion of forty-five thousand or over shall be five thousand two hundred dollars for the chief, four thousand two hundred dollars for each assistant chief, and three thousand eight hundred dollars for each fireman.*

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 31, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 282, Printer's No. 120, entitled "An act amending the act of June twenty-three, one thousand nine hundred thirty-one (Pamphlet Laws 932), entitled 'An act relating to cities of the third class; and amending, revising, and consolidating the law relating thereto,' fixing minimum salaries for paid firemen in certain cities."

This bill amends the act of June twenty-three, one thousand nine hundred thirty-one, Pamphlet Laws 93, which relates to cities of the third class, by fixing the minimum annual salary, or compensation to be paid the officers and firemen by any city with a population of 45,000 or over, as follows:

Chief .....	\$5,200.00
Each assistant chief .....	4,200.00
Each fireman .....	3,800.00

Section 902 of "The Third Class City Code" gives council the authority to prescribe by ordinance the compensation of the officers and employes. Why three positions should be singled out for special treatment and consideration is not clear. This is the type of legislation which makes it difficult for a city to preserve uniformity in salary schedules and disrupts budgets and makes of the Legislature an appellate court so far as salaries are concerned when presumably the Legislature has delegated the authority to the duly elected officials whose responsibility it is to fix the salaries, and to whom application for increases should be made. If the Legislature is to assume this authority, it should be done for all positions and not a selected few. The principle of home rule means the assumption of responsibilities as well as authority. This bill is an interference with that principle.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 40

AN ACT

Amending the act of April six, one thousand nine hundred fifty-three (Pamphlet Laws 3), entitled "An act relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank deposits and collections, documentary letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, and secured transactions, including certain sales of accounts, chattel paper, and contract rights; providing for public notice to third parties in certain circumstances; regulating procedure, evidence and damages in certain court actions involving such transactions, contracts or documents, and to make uniform the law with respect thereto," further regulating filing with respect to perfecting security interests.

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

Section 1. Subsection (1) of section 9-401, act of April six, one thousand nine hundred fifty-three (Pamphlet Laws 3), known as the "Uniform Commercial Code," is amended to read:

Section 9-401. Place of Filing; Erroneous Filing; Removal of Collateral.—(1) If filing is required by this Article (subsection (1) of Section 9-302) in order to perfect a security interest, the place of filing is as follows:

(a) when the collateral is accounts other than those arising from the sale of farm products by a farmer or is chattel paper, contract rights, inventory or equipment other than equipment used in farming operations, then in the office of the Secretary of Commonwealth and in addition if all of the debtor's places of business are in a single county in the office of the prothonotary of that county;

(b) when the collateral is consumer goods, equipment used in farming operations, farm products, or accounts arising from the sale of farm products by a farmer, then in the office of the prothonotary of the county of the debtor's residence or if the debtor is not a resident of this State then in the office of the prothonotary of the county where the goods are kept, and in addition when the collateral is crops in the office of the prothonotary in the county where the land on which the crops are growing or to be grown is located;

(c) when the collateral is goods which are or are to be so affixed to realty as to be a part thereof, then in the office where a mortgage on the realty concerned would be filed or recorded.

*(d) when the collateral is general, intangibles, documents, or any other type not specified in subclauses (a), (b) and (c) in the office of the Secretary of the Commonwealth, and in addition, if all the debtor's places of business are in a single county, in the office of the prothonotary of that county.*

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Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 31, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objection, Senate Bill No. 1029, Printer's No. 660, entitled, "An act amending the act of April six, one thousand nine hundred fifty-three (Pamphlet Laws 3), entitled 'An act relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank deposits and collections, documentary letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, and secured transactions, including certain sales of accounts, chattel paper, and contract rights; providing for public notice to third parties in certain circumstances; regulating procedure, evidence and damages in certain court actions involving such transactions, contracts or documents, and to make uniform the law with respect thereto,' further regulating filing with respect to perfecting security interests."



This bill was intended to supplement certain other proposed amendments to the Uniform Commercial Code which were not approved by the Legislature. Under these circumstances, the enactment of this bill would be meaningless in that the term "general intangibles" is nowhere defined in the present Uniform Commercial Code.

For this reason, the bill is not approved.

GEORGE M. LEADER

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No. 41

AN ACT

Relating to condemnation proceedings; requiring the filing of plans or legal descriptions; and imposing duties on the recorder of deeds.

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

Section 1. When the Commonwealth or any of its agencies, political subdivisions or authorities created under any law, appropriate or take any land or interest therein, in the exercise of eminent domain powers or in condemnation proceedings, the title of the owner of the land or interest therein and his successors, heirs, administrators, executors or assigns, shall not be affected thereby, unless a plan showing the property taken or a legal description thereof is filed in the office of the recorder of deeds wherein the land is situate.

Section 2. The recorder of deeds shall cause the plans or legal descriptions to be indexed in the indexes for deeds in and for his office, indexing the name of the owner of the land as a grantor's name is indexed and the name of condemnor as a grantee is indexed.

Section 3. All acts and parts of acts are repealed in so far as they are inconsistent herewith.

Section 4. This act shall take effect September one, one thousand nine hundred fifty-six.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 31, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 1022, Printer's No. 745, entitled "An act relating to condemnation proceedings; requiring the filing of plans or legal descriptions; and imposing duties on the recorder of deeds."

The evident purpose of the bill is praiseworthy in requiring that additional notice is given of all eminent domain proceedings.

However, the bill is drawn in such an ambiguous manner that the net effect would be to cause confusion and endanger a necessary function of government in its orderly acquisition of real estate for use of the public by the eminent domain process.

The several statutes which authorize the exercise of eminent domain for particular purposes and by particular entities of the Commonwealth's government are not in accord as to the time when the con-

demnor's title vests, and the proposed bill would further complicate the time of the vesting of the title by the requirement of filing the plan or description before any interest in the title of the owner would be affected, as well as endanger the title of the condemning body, if, through an oversight, a description of the property or plan was not filed with the recorder of deeds.

The bill would also require the recorder of deeds to file and index the legal description or maps. The recorder of deeds has the normal function of recording instruments and charging fees, which are set out in the several statutes, and this bill provides no fee and no mechanics for filing.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 42

AN ACT

Amending the act of June twenty-four, one thousand nine hundred thirty-nine (Pamphlet Laws 872), entitled "An act to consolidate, amend and revise the penal laws of the Commonwealth," making it unlawful to listen into deliberations of juries.

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

Section 1. The act of June twenty-four, one thousand nine hundred thirty-nine (Pamphlet Laws 872), known as "The Penal Code," is amended by adding, after section 305, \*one new section to read:

*Section 305.1. Unlawfully Listening Into Deliberations of Jury.—Whoever, by any scheme or device, or in any manner, for any purpose, listens into, or intentionally attempts to listen into the deliberations of any jury, grand, petit or traverse, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or undergo imprisonment not exceeding one (1) year, or both.*

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 31, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1894, Printer's No. 1824, entitled "An act amending the act of June twenty-four, one thousand nine hundred thirty-nine (Pamphlet Laws 872), entitled 'An act to consolidate, amend and revise the penal laws of the Commonwealth,' making it unlawful to listen into deliberations of juries."

This bill amends The Penal Code by adding a new section which proscribes the listening into jury deliberations or attempts to do so.

Some of the objectionable features of the original bill have been removed by amendment after recall, viz.: the penalty was reduced so that it is the same as that for jury "fixing"; the section punishing persons who are present in a Grand Jury room without lawful authority, but which did not describe so as to forestall the objection

\* "two" in original.

of vagueness as to who might or might not be lawfully present, was deleted.

Remaining is the objection that the bill would punish one who inadvertently listened into deliberations of the jury, while anomalously, a specific intent is required for an attempt to listen. This is a distinction which is at once unreasonable and unjust.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 43

AN ACT

Amending the act of July twenty, one thousand nine hundred seventeen (Pamphlet Laws 1158), entitled "An act to fix, regulate, and establish the fees to be charged and received by constables in this Commonwealth," increasing mileage.

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

Section 1. Section one, act of July twenty, one thousand nine hundred seventeen (Pamphlet Laws 1158), entitled "An act to fix, regulate, and establish the fees to be charged and received by constables in this Commonwealth," amended June twenty-eight, one thousand nine hundred fifty-one (Pamphlet Laws 931), is amended to read:

Section 1. Be it enacted, &c., That, from and after the passage of this act, the fees to be charged and received by constables in this Commonwealth shall be as follows:

For executing a warrant on behalf of the Commonwealth, for each defendant, two dollars fifty cents.

For conveying defendant, except vagrants, to jail, on mittimus or warrants, for each defendant, one dollar fifty cents, and in addition thereto for each mile going and returning [ten] *twelve* cents.

For arresting persons guilty of a breach of the peace, riotous or disorderly conduct, drunkenness, or who may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens, or violating any ordinance of any borough for the violation of which a fine or penalty is imposed, or offending or suspected of offending against the laws of this Commonwealth, protecting timberlands, or the violation of any other law of this Commonwealth authorizing arrest by constable without process, and bringing such offender before a justice of the peace, for each defendant, one dollar; and for every act in or about the arrest or commitment of vagrants, two dollars for each vagrant so arrested, or arrested and committed, and mileage as hereinafter provided.

For levying a fine or forfeiture on a warrant, fifty cents.

For taking the body of a defendant into custody on a mittimus, where bail is afterwards entered before delivery of body to the jailer, two dollars fifty cents.

For executing discharge to jailer, two dollars fifty cents.

For executing bail-piece, one dollar.

For executing a search-warrant, and making return thereon, one dollar.

For making returns to the court of quarter sessions, two dollars and fifty cents.

For serving summons, notices on referees, suitor or tenant, either personally or by leaving copy, one dollar fifty cents for each person served.

For serving subpoena, in all cases, one dollar fifty cents for the first witness, and seventy-five cents for each additional witness served.

For executing attachment, one dollar fifty cents for each defendant and garnishee served.

For arresting on a *capias*, one dollar for each person arrested.

For taking bail on a *capias*, or for delivery of goods, fifty cents.

For notifying plaintiff where defendant has been arrested on *capias*, to be paid by plaintiff, twenty-five cents.

For serving *capias* execution, one dollar.

For executing landlord's warrant, two dollars.

For taking inventory of goods, each item, two cents.

For levying or distraining goods, two dollars fifty cents.

For advertising personal property to public sale, two dollars and fifty cents.

For selling goods levied or distrained, two dollars, and when the same continues longer than three hours, five dollars per day.

For clerk hire at said sales, when necessary, five dollars per day.

For watchman taking charge of property levied on, when necessary, five dollars per day, also reasonable expenses of insurance, arranging goods for sale, heat, light, storage, rent, transportation, feeding live-stock, and similar expenses incurred in caring for and keeping goods and chattels levied upon, when the same is necessary and advantageous, or when requested by the plaintiff or defendant to incur such expense.

For receiving and paying over money paid after a levy, without sale, one dollar and fifty cents.

For copy of vendue paper, when demanded, each item two cents.

For putting up notice of distress at mansion-house, or at any other place on the premises, fifty cents.

For serving *scire facias*, either personally or by leaving a copy for each person served, one dollar fifty cents for the first copy, seventy-five cents for each additional copy.

For executing order of removal of a pauper, or paupers, two dollars for each pauper.

For making return of *nulla bona* or *non est inventus* on any writ, one dollar fifty cents.

For executing writ of restitution, five dollars.

For executing writ of possession, five dollars.

For serving summons in landlord and tenant proceedings, one dollar fifty cents.

For taking inventory of goods on an execution, each item, two cents.

For holding appraisal where exemption is claimed by defendant, four dollars, out of which the constable shall pay to each appraiser one dollar.

For traveling expenses in the performances of any duty or service incidental to any criminal proceeding, each mile, going and returning, twelve cents, and in the performance of any duty or service hereinbefore set forth, or in the performance of any other duty or service required by law, except those incidental to criminal proceedings, each mile going and returning ten cents; to be computed by the route

usually traveled in going from points and places where said constables may reside, or where he receives any paper to be executed, to the points or places required to be traveled, whether that route be by highways, railroads or otherwise: Provided, That in no case shall more mileage be demanded or received than for the miles actually traveled.

For services not herein specially provided for the same fee may be charged and received as for similar services.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 31, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 929, Printer's No. 1777, entitled "An act amending the act of July twenty, one thousand nine hundred seventeen (Pamphlet Laws 1158), entitled 'An act to fix, regulate and establish the fees to be charged and received by constables in this Commonwealth,' increasing mileage."

This bill amends the act of July twenty, one thousand nine hundred seventeen, Pamphlet Laws 1158, by increasing from 10 cents to 12 cents the fees of constables for each mile going and returning in conveying defendants to jail or the serving of warrants on defendants.

The present rate of 10 cents per mile is in excess of what is generally allowed by the State and private industry for traveling expenses. In many cases, these costs fall upon the counties. In view of these circumstances, I do not think the present is an opportune time to ask for an increase.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 44

#### A SUPPLEMENT

To the act approved the twenty-second day of August, one thousand nine hundred fifty-three (Appropriation Acts, page 54), entitled "An act to provide for the ordinary expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, interest on the public debt, and the support of the public schools for two years beginning June first, one thousand nine hundred and fifty-three, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending May thirty-first, one thousand nine hundred fifty-three," providing for deficiencies in certain appropriations made by the act for the fiscal biennium ending May thirty-first, one thousand nine hundred fifty-five.

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

Section 1. The following sums, or as much thereof as may be necessary, for deficiencies in certain appropriations made to the Department of Public Instruction and the Department of State by the

act to which this is a supplement, are hereby specifically appropriated to such departments as follows:

## I. EXECUTIVE DEPARTMENT

### To the Department of Public Instruction

For the payment of the deficiency in the appropriation for the payment into the School Employees' Retirement Fund, to the credit of the Contingent Reserve Account of the School Employees' Retirement Fund, as required by law, the sum of nine hundred sixty-seven thousand four dollars (\$967,004).

For the payment into the School Employees' Retirement Fund, to the credit of the State Annuity Reserve Account Number Two of the School Employees' Retirement Fund, as required by law, for the interest deficiency for the fiscal year ending June thirty, one thousand nine hundred fifty-three, and June thirty, one thousand nine hundred fifty-four, the sum of seven million five hundred thirty-seven thousand four hundred fifty-seven dollars (\$7,537,457).

### To the Department of State

For the payment into the State Employees' Retirement Fund, to the credit of the Members' Annuity Reserve Account and other accounts for the interest deficiency for the year ending May thirty-one, one thousand nine hundred fifty-three, and May thirty-one, one thousand nine hundred fifty-four, the sum of two million six hundred fifty thousand six hundred fifty-five dollars (\$2,650,655).

Section 2. This act shall become effective immediately upon final enactment.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 31, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1629, Printer's No. 672, entitled "A Supplement to the act approved the twenty-second day of August, one thousand nine hundred fifty-three (Appropriation Acts, page 54), entitled 'An act to provide for the ordinary expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, interest on the public debt, and the support of the public schools for two years beginning June first, one thousand nine hundred and fifty-three, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending May thirty-first, one thousand nine hundred fifty-three,' providing for deficiencies in certain appropriations made by the act for the fiscal biennium ending May thirty-first, one thousand nine hundred fifty-five."

This bill supplements the General Appropriation Act of one thousand nine hundred fifty-three, Appropriation Act No. 78-A, by making deficiency appropriation for the year ending June thirty, one thousand nine hundred fifty-three, and June thirty, one thousand nine hundred fifty-four, to the School Employees' Retirement Fund and to the State Employees' Retirement Fund.

I am fully aware of the fact that the Commonwealth is under obligation to make these appropriations and my action on this bill is not a failure to recognize the obligation, but simply to defer it until

such time as funds have been provided with which to meet the obligation.

Since these funds are presently not available, I have no alternative but to disapprove the bill.

For this reason, the bill is not approved.

GEORGE M. LEADER

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No. 45

AN ACT

Making an appropriation to the Department of Property and Supplies for the payment of certain moral claims; providing for the examination, adjustment and payment of moral claims of persons injured by reason of falling down the main staircase of the Capitol Building as a result of negligence of the Commonwealth in maintaining the same.

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

Section 1. The sum of ten thousand dollars (\$10,000), or so much thereof as may be necessary, is hereby specifically appropriated to the Department of Property and Supplies for the purpose of compensating any persons for any and all expenses, loss of wages or income, and pain and suffering incurred or suffered by them, by reason of an accident caused by any such person falling down the main staircase in the rotunda of the Capitol Building as a result of the negligence of the Commonwealth in properly maintaining said staircase.

Section 2. Any persons, heretofore or hereafter, injured or suffering damages as provided in section one of this act, may present a claim for compensation to the Department of the Auditor General for the purpose of examining and adjusting such claims in the manner provided by sections 306, 405 and 1003 of the act of April nine, one thousand nine hundred twenty-nine (Pamphlet Laws 343), known as "The Fiscal Code."

Section 3. If the Auditor General and State Treasurer determine that such injury was caused by the negligence of the Commonwealth, the Department of Property and Supplies or its employes, that a moral claim exists against the Commonwealth for such injury, and that such claim or claims are not adjustable or recoverable against the Commonwealth under existing law, they shall make a finding to that effect and shall fix the sum which, in their opinion, will compensate the claimant for such injury and damages.

Any amount so fixed by the Auditor General and the State Treasurer shall be payable, from the appropriation hereinbefore made, by requisition of the Secretary of Property and Supplies in the manner provided by law. To each such requisition shall be attached the findings of the Auditor General and the State Treasurer.

Section 4. If the Auditor General and State Treasurer should, for any reason, refuse to grant a claim authorized to be made by this act, the claimant shall have the right to appeal to the Board of Finance

and Revenue and, from the decision of that board, to the Court of Common Pleas of Dauphin County in the manner prescribed by law.

Section 5. No statute of limitation or other limitation as to time prescribed by law shall apply to or limit a claim for compensation made pursuant to the provisions of this act.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, May 31, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 201, Printer's No. 718, entitled "An act making an appropriation to the Department of Property and Supplies for the payment of certain moral claims; providing for the examination, adjustment and payment of moral claims of persons injured by reason of falling down the main staircase of the Capitol Building as a result of negligence of the Commonwealth in maintaining the same."

This bill provides the sum of \$10,000.00 or so much thereof as may be necessary, is specifically appropriated to the Department of Property and Supplies for the purpose of compensating any persons for any and all expenses, loss of wages, or income and pain and suffering incurred or suffered by them by reason of an accident caused by any such person falling down the main staircase in the rotunda of the Capitol Building as a result of the negligence of the Commonwealth in properly maintaining said staircase.

The Department of Justice has ruled repeatedly that neither the Commonwealth nor any of its institutions is liable for the negligence of any employe of the Commonwealth.

See 1921-22 Op. Atty. Gen. 455; 1927-28 Op. Atty. Gen. 138, and 1939-40 Op. Atty. Gen. 160 and 211.

In addition, this is special legislation in violation of Article III, Section 7 of the Constitution. In the interests of equal treatment of all citizens, I believe that if the Commonwealth is to assume liability in tort it should be done by a general statute, available to everyone, and that the liability should not be based upon the enactment of special legislation.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 46

AN ACT

Pertaining to the payment of compensation to judges upon retirement under certain conditions, and imposing duties on certain State officers.

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

Section 1. In this act, (a) "Judge" shall mean the Chief Justice and any judge of the Supreme Court, the President Judge and any judge of the Superior Court, and any judge of any court of common pleas or orphans' court, and any judge of the Municipal Court of



Philadelphia, the County Court of Allegheny County and the Juvenile Court of Allegheny County, holding any such office at any time on or after the effective date of this act, regardless of whether or not he holds such office at the time he otherwise becomes eligible for the benefits of this act.

(b) "Final salary" shall mean the salary received by a judge during the last twelve months of his active service as a judge.

Section 2. Any judge who has served at least one full elective term, or ten years in the aggregate, continuously or otherwise, in one or more of the judicial offices referred to in section one (a) hereof, shall, upon attaining the age of sixty-five years or thereafter at such times as he shall otherwise qualify, be paid annually, in equal monthly installments, during the remainder of his life, a sum equal to two and one-half per centum of his final salary for each year he served as a judge, subject to the deductions therefrom provided in section five of this act.

In order to qualify for such payments, the judge must—

(a) Give to the Governor of the Commonwealth of Pennsylvania the written notice required by section three of this act, and

(b) Hold himself in readiness to advise his successors in judicial office and their colleagues, and to perform such duties as special master, referee, auditor or examiner in such ways as he may reasonably be able to do.

No judge shall be eligible to receive such payments so long as he is in active service as a judge.

Section 3. Any judge who becomes eligible for and desires to obtain the benefits of this act shall file with the Governor of the Commonwealth of Pennsylvania a written notice of his election to receive the benefits of this act accompanied by a statement, in writing, of his willingness to hold himself in readiness to advise his successors and their colleagues, and perform such duties as special master, referee, auditor or examiner in such ways as he may be able to do. He shall, simultaneously therewith, file executed copies of the notice and statement with the State Employes' Retirement Board. He shall be entitled to and receive payments under this act from the date the notice is received by the Governor.

Section 4. Any judge who shall become incapacitated while in judicial office by reason of his health or physical disability and for this reason shall not be able to render full and efficient service to the Commonwealth in his judicial capacity, shall be eligible to receive the payments provided for in this section, if he has served at least one full elective term or ten years in the aggregate as a judge, and shall have attained the age of sixty years, or if he has served at least two full elective terms or twenty years in the aggregate as a judge and shall have attained the age of fifty years and otherwise qualifies under section two. Upon receiving notice of such judge's election to receive the benefits of this section, the Governor shall appoint three physicians who are residents of this Commonwealth, who shall examine such judge and report to the Governor as to the applicant's incapacity by reason of his health or physical disability, and if they find the disability exists, whether in all reasonable probability it will continue permanently, and does and will continue to prevent the applicant

from giving full and efficient service to the Commonwealth in the regular performance of his judicial duties. If it is made to appear by such report that the disability exists and that it will in all reasonable probability continue permanently, and if the Governor approves the report, the Governor shall file it with his approval endorsed thereon with the Secretary of the Commonwealth, and a copy thereof with the State Employees' Retirement Board. As of the date of such approval, the applicant shall be retired from further active service as a judge and he shall be paid, annually, in equal monthly installments, from the date of his retirement for disability until he attains the age of sixty-five years, a sum equal to one-third of his final salary, subject, however, to deductions therefrom as provided in section five of this act. Thereafter, he shall be entitled to a continuation of such payments during the remainder of his life or to the payments provided in section two of this act, whichever shall be greater.

Section 5. The annual payments provided in this act, to be paid to any person qualified under sections two or four hereof, shall be reduced by the amount that the total payments, if any, he is entitled to receive annually as a member of the State Employees' Retirement System as State and members' annuities on the basis of the full superannuation allowance to which he is entitled, or disability allowance in accordance with the provisions of the State Employees' Retirement Law, act of June twenty-seven, one thousand nine hundred twenty-three (Pamphlet Laws 858), as amended and supplemented, and the payments that he is entitled to receive under this act exceeds eighty per centum of his final salary. And shall be further reduced by an annual sum equivalent to a member's annuity which shall be the actuarial equivalent to the contributions which would have accumulated if the Judge had paid into the State Employees' Retirement System from December one, one thousand nine hundred fifty-four, or the later date of eligibility for such membership additional contributions equal to 25% of the contribution required if a member of the Retirement System. Any judge who is not a member of the State Employees' Retirement System shall, in no event, receive under the provisions of this act more than he would have received had he been a member of the State Employees' Retirement System during the entire period of his eligibility for such membership. The State Employees' Retirement Board, upon receipt of its copy of the judge's notice of election to receive the benefits of this act, shall forthwith certify to the State Treasurer and Auditor General whether or not he is a member of the State Employees' Retirement System, and if he is a member, the total annual amount from all annuities to which he is entitled as a member of the State Employees' Retirement System, and if he is not a member, the total annual amount from all annuities to which he would have been entitled if he had been such a member during the period of his eligibility. For such membership, the calculation and determination of the payments to be made under the provisions of this act, and the distribution and payment thereof to the judges entitled thereto, shall be made by and under the supervision and direction of the State Employees' Retirement System.

Section 6. No judge, while accepting payments provided for in this act, shall be entitled to any additional compensation for the performance of any duties assigned to him under this act, but such

judge shall not be obliged to accept an assignment or duty from any court other than the court of the judicial district of which he was a member at the time of his resignation or retirement.

Section 7. This act is intended as additional legislation and shall not be construed as repealing the act of June twenty-seven, one thousand nine hundred twenty-three (Pamphlet Laws 858), establishing a State Employees' Retirement System, or the amendments and supplements thereto. All other acts or parts of acts inconsistent herewith are repealed.

Section 8. This act shall take effect June one, one thousand nine hundred fifty-six.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, June 1, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 318, Printer's No. 743, entitled "An act pertaining to the payment of compensation to judges upon retirement under certain conditions, and imposing duties on certain State officers."

This bill provides for the payment of compensation to judges upon retirement. It is intended as additional legislation and not as a repealer of the State Employees' Retirement Act of June twenty-seven, one thousand nine hundred twenty-three, Pamphlet Laws 858.

No provision is made for any contribution by a judge. In short, it is a gratuity, except where a retired judge performs services as referees, masters, etc.

The bill is vague, indefinite and subject to different interpretations. It does not definitely provide that a judge should resign, retire or conclude his term of office in order to avail himself of the privileges of this bill. Judges are constitutional officers and may be removed only as provided in the Constitution. If the acceptance of the benefits of this bill is to operate as the creation of a vacancy, a resignation or retirement, it should be definitely and specifically stated, so that there can be no doubt about the existence of a vacancy.

This legislation may have been drawn with desirable objectives, but it needs further study, so that there can be no question as to its interpretation.

Legislation of this type should be incorporated in our retirement system statutes.

Judges are members of our State Retirement System or are eligible for membership and it is not desirable from the standpoint of administration to establish a new or additional system. Any exception will promote additional exceptions.

Since the General Assembly will return in the near future, I recommend that this subject be given careful consideration and made ready for early introduction in January, one thousand nine hundred fifty-seven.

For these reasons, the bill is not approved.

GEORGE M. LEADER

## AN ACT

Amending the act of June thirteen, one thousand eight hundred eighty-three (Pamphlet Laws 119), entitled "An act for the promotion of medical science by the distribution and use of unclaimed human bodies for scientific purposes through a board created for that purpose and to prevent unauthorized uses and traffic in human bodies," regulating the burial costs for unclaimed bodies unfit for anatomical purposes and making provisions conform to existing law.

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

Section 1. The last paragraph of section two, act of June thirteen, one thousand eight hundred eighty-three (Pamphlet Laws 119), entitled "An act for the promotion of medical science by the distribution and use of unclaimed human bodies for scientific purposes through a board created for that purpose and to prevent unauthorized uses and traffic in human bodies," amended May eighteen, one thousand nine hundred forty-five (Pamphlet Laws 701), is amended to read:

## Section 2. \* \* \*

In case of the death of any person whose body is required to be buried at the public expense, and the duly authorized officer or agent of the board deems such body unfit for anatomical purposes, he shall notify in writing the [county commissioners in counties of the first class and] *Welfare Commissioner of the City of Philadelphia* or the executive officers of the county institution district in [all other counties] *the county* where such person died, and who shall direct some person to take charge of the body of such deceased indigent person, and cause it to be buried; and draw warrants upon the treasurer of their *city or county* for the payment of such expenses, which expenses shall not be more than [fifty dollars in counties of the first class and second class, and not more than] seventy-five dollars [in all other counties] on each body buried in accordance with the provisions for this act. Such warrants shall be made payable to the persons so authorized and directed, who shall have buried the bodies for which said warrants are to be drawn. No warrants for the payment of the expenses of the burial of any person whose body is required to be buried at the public expense shall be drawn or paid except upon the certificate of the duly authorized officer or agent of the board, to the effect that such body is unfit for anatomical purposes or that the body is that of a soldier, sailor, or marine of the United States or of the militia of the State of Pennsylvania required to be buried at the public expense, and that the provisions of this act have been complied with.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, June 1, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1843, Printer's No. 1686, entitled "An act amending the act of June thirteen, one thousand eight hundred eighty-three (Pamphlet Laws 119), entitled 'An act for the promotion of medical science by the distribution and use of unclaimed human bodies for scientific purposes through a board created for that

purpose and to prevent unauthorized uses and traffic in human bodies,' regulating the burial costs for unclaimed bodies unfit for anatomical purposes and making provisions conform to existing law."

This bill provides for the transfer of the duties from the county commissioners in counties of the first class to the Welfare Commissioner of the City of Philadelphia with respect to the burial of unclaimed deceased indigent persons and proposes to increase from \$50.00 to \$75.00 the amount paid to the person making the burial.

The several Acts of Assembly relating to counties of the first class are affected by the provisions of Article XIV, Section 8 of the Pennsylvania Constitution which provides that the county offices in the County of Philadelphia are abolished and the city officials are mandated to perform all the functions of the county government.

The functions and duties of the county commissioners are now being performed by the City Commissioners of Philadelphia.

No reasons have been brought to my attention for making the proposed change in duties. The City Commissioners have functioned well and no substantial reason is apparent to make the transfer.

I am of the opinion that this matter should receive further study before being enacted into law.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 48

AN ACT

Directing the Highway & Bridge Authority in cooperation with the City of Harrisburg and at the expense of the Commonwealth to construct a by-pass through the southwest corner of Capitol Park.

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

Section 1. In order to facilitate traffic and promote safety at the intersection of Third and Walnut Streets, in the City of Harrisburg, the Highway & Bridge Authority in cooperation with the City of Harrisburg shall, at the expense of the Commonwealth, construct a by-pass through the southwest corner of Capitol Park from the intersection of Dewberry Street with Walnut Street to the intersection of Locust Street with Third Street. The plans therefor shall be approved by the Board of Commissioners of Public Grounds and Buildings and by the City of Harrisburg.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, June 1, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 864, Printer's No. 490, entitled "An act directing the Highway & Bridge Authority in cooperation with the City of Harrisburg and at the expense of the Commonwealth to construct a by-pass through the southwest corner of Capitol Park."

This bill would direct the State Highway and Bridge Authority, in cooperation with the City of Harrisburg and at the expense of the

Commonwealth, to construct a by-pass through the southwest corner of Capitol Park from the intersection of Dewberry Street with Walnut Street to the intersection of Locust Street with Third Street.

The stated purpose of this bill is to facilitate traffic and to promote safety within the City of Harrisburg. As to that purpose I certainly have no objection. However, the Department of Highways advises me that the proposed by-pass will not link any portions of the existing State Highway System. This bill, therefore, would seem to present serious and substantial constitutional questions as respects Article III, Section 7 of the Pennsylvania Constitution, which provides that "The General Assembly shall not pass any local or special law \* \* \* Authorizing the laying out, opening, altering or maintaining, roads, highways, streets or alleys."

Moreover, this bill is loosely and ambiguously drawn. It would charge the State Highway and Bridge Authority with the responsibility of constructing the by-pass at the expense of the Commonwealth. And yet, the bill neither specifically increases the borrowing capacity of the Authority for this purpose nor expresses any definite intent as to which of the several departments of the Commonwealth shall ultimately bear the expenses of construction.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 49

AN ACT

To amend the act approved the tenth day of March, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," by further providing for reimbursement by the Commonwealth to school districts and vocational school district, authorizing the revision of budgets and temporary loans, and harmonizing the language of existing amendments.

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

Section 1. Subsections four, five and six of section two thousand five hundred one of the act, approved the 10th day of March, 1949 (Pamphlet Laws 30), known as the "Public School Code of 1949," as last amended by the act approved the twenty-seventh day of December, one thousand nine hundred fifty-one (Pamphlet Laws 1783), are hereby further amended to read as follows:

Section 2501. Definitions.—For the purposes of this article the following terms shall have the following meanings:

\* \* \* \* \*

(4) "Minimum Subsidy" shall designate the minimum amount, per teaching unit, payable by the Commonwealth to any school district or vocational school district under the provisions of this act. The minimum subsidy shall be one thousand dollars (\$1000); for the school year 1956-1957, the minimum subsidy shall be one thousand two hundred dollars (\$1200); and for the school year 1957-1958, and each

*school year thereafter the minimum subsidy shall be one thousand four hundred dollars (\$1400).*

(5) "Maximum Subsidy" shall designate the maximum amount, per teaching unit, which may be payable by the Commonwealth to any one school district or vocational school district under the provisions of this act. The maximum subsidy shall be: [for the school year 1950-1951, three thousand eight hundred fifty dollars (\$3850); for the school year 1951-1952, four thousand dollars (\$4000); for the school year 1952-1953, four thousand three hundred dollars (\$4300); for the school year 1953-1954, four thousand five hundred dollars (\$4500);] for the school year 1954-1955, four thousand seven hundred dollars (\$4700); for the school year 1955-56, [four] *five* thousand [nine] *one* hundred dollars [(\$4900)] (*\$5100*); for the school year 1956-1957, five thousand [one] *four* hundred dollars [(\$5100)] (*\$5400*); for the school year 1957-1958, five thousand [three] *seven* hundred dollars [(\$5300)] (*\$5700*); for the school year 1958-1959 and for each school year thereafter, five thousand [five] *nine* hundred dollars [(\$5500)] (*\$5900*): Provided, That in the event that Federal moneys shall at any time be made available to the Commonwealth for school purposes, the Superintendent of Public Instruction may from time to time increase the amount of the applicable maximum subsidy to school districts, but not to vocational school districts, to an extent necessary to absorb the amount of any allocation of Federal moneys so that "maximum subsidy" as hereinabove limited, shall always have reference to payments made out of appropriations of Commonwealth moneys irrespective of any available Federal moneys.

(6) "Standard Reimbursement Fraction." School districts' or vocational school districts' standard reimbursement fraction shall be computed annually in the month of December by the Department of Public Instruction.

In the case of a school district, its standard reimbursement fraction shall be computed for the school year [1950-1951 by subtracting from three thousand eight hundred fifty dollars (\$3850), an amount determined by multiplying the school district's valuation per district teaching unit by four one-thousandths (.004), and dividing the difference so obtained by three thousand eight hundred fifty dollars (\$3850); for the school year 1951-1952 by subtracting from four thousand dollars (\$4000), an amount determined by multiplying the school district's valuation per district teaching unit by four one-thousandths (.004), and dividing the difference so obtained by four thousand dollars (\$4000); for the school year 1952-1953 by subtracting from four thousand three hundred dollars (\$4300), an amount determined by multiplying the school district's valuation per district teaching unit by four one-thousandths (.004), and dividing the difference so obtained by four thousand three hundred dollars (\$4300); for the school year 1953-1954 by subtracting from four thousand five hundred dollars (\$4500), an amount determined by multiplying the school district's valuation per district teaching unit by four one-thousandths (.004), and dividing the difference so obtained by four thousand five hundred dollars (\$4500); for the school year] 1954-1955 by subtracting from four thousand seven hundred dollars (\$4700), an amount determined by multiplying the school district's valuation per district teaching unit by four one-thousandths (.004), and dividing the difference so obtained by four thousand seven hundred dollars

(\$4700); for the school year 1955-1956 by subtracting from [four] *five* thousand [nine] *one* hundred dollars [(\$4900)] (\$5100), an amount determined by multiplying the school district's valuation per district teaching unit by four one-thousandths (.004), and dividing the difference so obtained by [four] *five* thousand [nine] *one* hundred dollars [(\$4900)] (\$5100); for the school year 1956-1957 by subtracting from five thousand [one] *four* hundred dollars [(\$5100)] (\$5400), an amount determined by multiplying the school district's valuation per district teaching unit by four one-thousandths (.004), and dividing the difference so obtained by five thousand [one] *four* hundred dollars [(\$5100)] (\$5400); for the school year 1957-1958 by subtracting from five thousand [three] *seven* hundred dollars [(\$5300)] (\$5700), an amount determined by multiplying the school district's valuation per district teaching unit by four one-thousandths (.004), and dividing the difference so obtained by five thousand [three] *seven* hundred dollars [(\$5300)] (\$5700); for the school year 1958-1959 and for each school year thereafter by subtracting from five thousand [five] *nine* hundred dollars [(\$5500)] (\$5900), an amount determined by multiplying the school district's valuation per district teaching unit by four one-thousandths (.004), and dividing the difference so obtained by five thousand [five] *nine* hundred dollars [(\$5500)] (\$5900).

In the case of a vocational school district, its standard reimbursement fraction shall be computed for the school year [1950-1951 by subtracting from three thousand eight hundred fifty dollars (\$3850), an amount determined by multiplying the valuation per district teaching unit by three one-thousandths (.003), and dividing the difference so obtained by three thousand eight hundred fifty dollars (\$3850); for the school year 1951-1952 by subtracting from four thousand dollars (\$4000), an amount determined by multiplying the valuation per district teaching unit by three one-thousandths (.003), and dividing the difference so obtained by four thousand dollars (\$4000); for the school year 1952-1953 by subtracting from four thousand three hundred dollars (\$4300), an amount determined by multiplying the valuation per district teaching unit by three one-thousandths (.003), and dividing the difference so obtained by four thousand three hundred dollars (\$4300); for the school year 1953-1954 by subtracting from four thousand five hundred dollars (\$4500), an amount determined by multiplying the valuation per district teaching unit by three one-thousandths (.003), and dividing the difference so obtained by four thousand five hundred dollars (\$4500); for the school year] 1954-1955 by subtracting from four thousand seven hundred dollars (\$4700), an amount determined by multiplying the valuation per district teaching unit by three one-thousandths (.003), and dividing the difference so obtained by four thousand seven hundred dollars (\$4700); for the school year 1955-1956 by subtracting from [four] *five* thousand [nine] *one* hundred dollars [(\$4900)] (\$5100), an amount determined by multiplying the valuation per district teaching unit by three one-thousandths (.003), and dividing the difference so obtained by [four] *five* thousand [nine] *one* hundred dollars [(\$4900)] (\$5100); for the school year 1956-1957 by subtracting from five thousand [one] *four* hundred dollars [(\$5100)] (\$5400), an amount determined by multiplying the valuation per district teaching unit by three one-thousandths (.003), and dividing the difference so obtained by five thousand [one] *four* hundred dollars [(\$5100)] (\$5400); for the school year



1957-1958 by subtracting from five thousand [three] *seven* hundred dollars [(\$5300)] (*\$5700*), an amount determined by multiplying the valuation per district teaching unit by three one-thousandths (.003), and dividing the difference so obtained by five [three] *seven* hundred dollars [(\$5300)] (*\$5700*); for the school year 1958-1959 and for each school year thereafter by subtracting five thousand [five] *nine* hundred dollars [(\$5500)] (*\$5900*), an amount determined by multiplying the valuation per district teaching unit by three one-thousandths (.003), and dividing the difference so obtained by five thousand [five] *nine* hundred dollars [(\$5500)] (*\$5900*).

A school district's or vocational school district's valuation, to be used for purposes of computing the standard reimbursement fraction, shall be the valuation placed upon its taxable real property by the State Tax Equalization Board.

A school district's or vocational school district's number of district teaching units, for purposes of determination of the standard reimbursement fraction, shall be obtained as follows: (i) divide by twenty-two (22) the number of district pupils in average daily membership in a public high school during the preceding school term; (ii) divide by thirty (30) the number of district pupils in average daily membership in a public elementary school during the preceding school term; and (iii) add the quotients obtained under (i) and (ii) above, except when the pupil-teacher ratio exceeds thirty-three (33) in which case the sum obtained under (i) and (ii) above shall be multiplied by thirty-three (33) and the product so obtained shall be divided by the pupil-teacher ratio of the district. No school district or vocational school district shall be credited with less than one teaching unit, or be assigned a reimbursement fraction lower in value than the minimum subsidy divided by the maximum subsidy. All one-room schools operated in accordance with the provisions of this act shall, if their operation is approved by the State Council of Education, be credited with at least one teaching unit. The State Council of Education shall withhold its approval of any one-room, one-teacher school unless (i) topography distance or condition of roads is such as to make transportation of pupils impractical, or (ii) it is impossible to accommodate pupils in existing graded schools in the district or other districts, or (iii) the district is financially unable to construct a consolidated school.

Section 2. Section 2502 of the act, amended July twenty-nine, one thousand nine hundred fifty-three (Pamphlet Laws 976), August nineteen, one thousand nine hundred fifty-three (Pamphlet Laws 1088), August nineteen, one thousand nine hundred fifty-three (Pamphlet Laws 1169), August nineteen, one thousand nine hundred fifty-three (Pamphlet Laws 1210), and August twenty-one, one thousand nine hundred fifty-three (Pamphlet Laws 1223), is amended to read:

Section 2502. Payments on Account of Instruction.—(a) Every school district and every vocational school district shall be paid by the Commonwealth on account of the instruction of [all] pupils [in average daily membership in the district's public schools, joint elementary schools and joint high schools, and area technical schools] an amount to be determined by multiplying the number of teaching units, [based on the number of all pupils except kindergarten pupils in average daily membership in the district's public schools, joint elementary schools and joint high schools, and area technical schools

and in the case of kindergarten pupils based on the number of kindergarten teachers employed] by the district's standard reimbursement fraction; [and for the school year 1950-1951 by three thousand eight hundred fifty dollars (\$3850); for the school year 1951-1952 by four thousand dollars (\$4000); for the school year 1952-1953 by four thousand three hundred dollars (\$4300); for the school year 1953-1954 by four thousand five hundred dollars (\$4500);] for the school year 1954-1955 four thousand seven hundred dollars (\$4700); for the school year 1955-1956 by [four] *five* thousand [nine] *one* hundred dollars [(\$4900)] (*\$5100*); for the school year 1956-1957 by five thousand [one] *four* hundred dollars [(\$5100)] (*\$5400*); for the school year 1957-1958 by five thousand [three] *seven* hundred dollars [(\$5300)] (*\$5700*); for the school year 1958-1959 and for each school year thereafter by five thousand [five] *nine* hundred dollars [(\$5500)] (*\$5900*); [For the school year 1952-1953 teaching units shall be based on the number of all pupils in average daily membership in the district's public schools, joint elementary schools and joint high schools;] for the school year 1953-1954, and each school year thereafter, teaching units shall be based on the number of all pupils, *except kindergarten pupils*, who are residents of the school district in average daily membership in the districts' public schools and in elementary schools and high schools operated by joint boards of which the district of residence is a member, *and in area technical schools in which the district of residence participates*. *In the case of kindergarten pupils teaching units shall be one for each kindergarten teacher employed by the district.*

(b) In addition to the payments hereinbefore specified, the following supplemental payments shall be made to districts of the third and fourth class and to such other districts as have been approved by the Department of Public Instruction prior to the [effective date of this amendment] *fifth day of July, one thousand nine hundred fifty-four*, that are the districts of residence on account of pupils enrolled in elementary schools or high schools operated by joint boards of which the district of residence is a member, pupils enrolled in area technical schools in which the district of residence participates, and pupils enrolled in schools operated by union or merged districts:

(1) In the case of joint elementary schools, five hundred dollars (\$500) per teaching unit multiplied by the standard reimbursement fraction of the district of residence.

(2) In the case of joint high schools, five hundred dollars (\$500) per teaching unit multiplied by the standard reimbursement fraction of the district of residence.

(3) In the case of elementary schools operated by union or merged districts, eight hundred dollars (\$800) per teaching unit multiplied by the district's standard reimbursement fraction.

(4) In the case of high schools operated by union or merged districts, eight hundred dollars (\$800) per teaching unit multiplied by the district's standard reimbursement fraction.

(5) In the case of area technical schools, eight hundred dollars (\$800) per teaching unit multiplied by the standard reimbursement fraction of the district of residence.

In all cases, the supplemental payments specified in the foregoing shall be made only for organizations established and operated in

accordance with standards and regulations prescribed by the State Council of Education and approved by the Department of Public Instruction. [After the school year 1953-1954 payments required by this subsection shall be paid only to districts of the third and fourth class and to such other districts as have been approved by the Department of Public Instruction prior to the effective date of this amendment.]

(c) Notwithstanding the foregoing provisions of this section, when because of sparsity of population, road or climatic conditions, or lack of other available high school facilities, the State Council of Education has approved the continued operation of a small high school, the district shall receive an amount based on a number of teaching units equal to the number of teachers approved by the State Council of Education as being required to provide a satisfactory educational program in such school, provided that the number of teachers employed is not less than the number approved.

(d) For no year shall any school district or vocational school district receive less than the minimum subsidy per teaching unit, nor shall any school district of the first class A during the school year 1953-1954 for the school year 1952-1953, or during the school year 1954-1955 for the school year 1953-1954, receive less than the amount received by any district of the first class.

(e) All payments and supplemental payments due school districts on account of instruction of pupils in area technical schools shall be made to the county board of school directors.

Section 3. The act is amended by adding, after section 2502, a new section to read:

*Section 2502A. In addition to any other payments required to be made by the Commonwealth to school districts and vocational school districts under the provisions of this act, the Commonwealth shall pay each school district and each vocational school district during the school year 1955-1956, the sum of one hundred dollars (\$100) on account of each professional and temporary professional employe.*

Section 4. Notwithstanding any other provisions of the Public School Code of 1949, its amendments and supplements, the board of school directors or board of education of each school district is hereby authorized for the school years 1955-1956 and 1956-1957 to make such revisions in its budgets as may be necessary to meet any increases in the mandated salaries of district superintendents, associate superintendents, professional employes and temporary professional employes, which may be provided by the General Assembly for the school years 1955-1956 and 1956-1957, to increase its receipts by whatever amounts are provided by this act, and, if necessary, to make temporary loans to provide such additional revenues as may be required.

Section 5. This act shall take effect immediately.

Commonwealth of Pennsylvania,  
Governor's Office,  
June 1, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 584, Printer's No. 1830, entitled

“An Act to amend the act approved the tenth day of March, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled ‘An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto,’ by further providing for reimbursement by the Commonwealth to school districts and vocational school districts, authorizing the revision of budgets and temporary loans, and harmonizing the language of existing amendments.”

This bill is a companion bill to House Bill No. 583 and was designed to implement the provisions of that bill. This bill is undesirable in that it rolls back for one year the State subsidy to school districts at a time when money has not been made available.

House Bill No. 584 increased the State subsidy to local school districts for the school year 1955-1956 when teachers' salaries were not increased until the school year 1956-1957.

In January of 1957, I shall recommend that a new bill be enacted which will maintain the traditional pattern of Pennsylvania State subsidies to the local school districts to assist in meeting the cost of House Bill No. 583.

For these reasons, the bill is not approved.

GEORGE M. LEADER

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No. 50

AN ACT

Establishing minimum compensation and increments for administrators and members of the faculty of the Thaddeus Stevens Trade School; and imposing duties on the board of trustees of such school and the Superintendent of Public Instruction.

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

Section 1. Compensation of each administrator or member of the faculty of the Thaddeus Stevens Trade School shall be payable in equal monthly or semi-monthly installments during the regular school term or year.

Section 2. Each person, heretofore or hereafter, appointed to a position as an administrator or member of the faculty of the Thaddeus Stevens Trade School, shall receive the following minimum salaries and yearly increments for services rendered during the regular school term or year:

(1) Teachers holding a standard certificate valid for the subjects or grades in which the teacher is giving instruction minimum annual salary for the school year 1956-1957, three thousand dollars (\$3000); for the school year 1957-1958, three thousand two hundred dollars (\$3200); for the school year 1958-1959, three thousand four hundred dollars (\$3400); and for the school year 1959-1960, three thousand six hundred dollars (\$3600); minimum annual service increment two hundred dollars (\$200); minimum number of service increments, seven (7); maximum mandated annual salary, five thousand dollars (\$5000).

(2) Teachers holding a college certificate valid for the subjects or grades in which the teacher is giving instruction minimum annual salary for the school year 1956-1957, three thousand dollars (\$3000); for the school year 1957-1958, three thousand two hundred dollars (\$3200); for the school year 1958-1959, three thousand four hundred dollars (\$3400); and for the school year 1959-1960, three thousand six hundred dollars (\$3600); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, nine (9); maximum mandated annual salary, five thousand four hundred dollars (\$5400).

(3) Teachers holding a Master's Degree and who also hold a college certificate valid for the subjects or grades in which the teacher is giving instruction minimum annual salary for the school year 1956-1957, three thousand dollars (\$3000); for the school year 1957-1958, three thousand two hundred dollars (\$3200); for the school year 1958-1959, three thousand four hundred dollars (\$3400); and for the school year 1959-1960, three thousand six hundred dollars (\$3600); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, eleven (11); maximum mandated annual salary five thousand eight hundred dollars (\$5800).

(4) Teachers of applied arts and vocational subjects, who hold a standard certificate, shall be entitled to the same minimum salary and increments as teachers who hold a college certificate.

(5) Teachers of applied arts and vocational subjects, who hold a standard certificate and have earned an additional thirty semester hours of credit in professional education in the teaching field in which said teacher is engaged or related thereto, shall be entitled to the same minimum salary and increments as teachers holding a Master's Degree.

(6) Supervisors who devote one-half or more of their time to supervision of instruction, holding a standard or college certificate, minimum annual salary for the school year for the school year 1956-1957, four thousand dollars (\$4000); for the school year 1957-1958, four thousand two hundred dollars (\$4200); for the school year 1958-1959, four thousand four hundred dollars (\$4400); and for the school year 1959-1960, four thousand six hundred dollars (\$4600); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, seven (7); maximum mandated annual salary, six thousand dollars (\$6000).

(7) Supervisors who devote one-half or more of their time to supervision of instruction, holding a Master's Degree, minimum annual salary for the school year 1956-1957, four thousand dollars (\$4000); for the school year 1957-1958, four thousand two hundred dollars (\$4200); for the school year 1958-1959, four thousand four hundred dollars (\$4400); and for the school year 1959-1960, four thousand six hundred dollars (\$4600); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, nine (9); maximum mandated annual salary, six thousand four hundred dollars (\$6400).

(8) Principals who devote one-half or more of their time to supervision and administration and having less than twenty teachers under their supervision, who hold a standard certificate, college certificate or master's degree, minimum annual salary for the school year 1956-1957,

four thousand dollars (\$4000); for the school year 1957-1958, four thousand two hundred dollars (\$4200); for the school year 1958-1959, four thousand four hundred dollars (\$4400); and for the school year 1959-1960, four thousand six hundred dollars (\$4600); minimum annual service increment, four hundred dollars (\$400); minimum number of service increments, four (4): Provided, That such principals holding a Master's Degree shall receive thereafter two (2) additional service increments of two hundred dollars (\$200) each; maximum mandated annual salary, six thousand six hundred dollars (\$6600).

(9) Such principals having twenty or more teachers under their supervision but less than forty and who hold a standard certificate, college certificate or Master's Degree minimum annual salary, for the school year 1956-1957, four thousand four hundred dollars (\$4400); for the school year 1957-1958, four thousand six hundred dollars (\$4600); for the school year 1958-1959, four thousand eight hundred dollars (\$4800); and for the school year 1959-1960, five thousand dollars (\$5000); minimum annual service increment, four hundred dollars (\$400); minimum number of service increments, four (4): Provided, That such principals holding a Master's Degree shall receive thereafter two (2) additional service increments of two hundred dollars (\$200); each maximum mandated annual salary, seven thousand dollars (\$7000).

(10) Provided, That the maximum salary required to be paid under the provisions of this section shall not exceed the minimum annual salary plus the sum of the total number of increments for the class.

Section 3. Nothing contained herein shall be construed as prohibiting the payment of compensation beyond the salaries prescribed in this act nor shall any part of this act be construed as prohibiting the employment of members of the administrative staff of the Thaddeus Stevens Trade School on a twelve month basis.

Section 4. Any faculty member or administrator who, during the term of his employment, shall have attained the qualification necessary for the next higher classification, as hereinbefore set forth, shall, commencing with the next succeeding regular school year within the percentage limitation prescribed by this act, receive the compensation prescribed for such advanced classification, which shall be at least two hundred dollars (\$200) in excess of the increment earned by him during the previous year.

Section 5. The provisions of this act shall not be construed as authorizing any decrease in the salary paid any member of the faculty or administrator of the Thaddeus Stevens Trade School at the effective date of this act.

Each person employed as a member of the faculty or administrator of the Thaddeus Stevens Trade School, receiving compensation equivalent to or in excess of the minimum salary prescribed by the above schedule, shall, for the school year 1955-1956, be raised to the next higher step on the schedule, unless such increase shall be less than one full increment, in which case he shall be raised to the next higher step on the applicable schedule. Each such person receiving compensation less than the minimum salary prescribed by the schedule shall, for the school year 1955-1956, be raised to such minimum salary, unless

such increase shall be less than one full increment, in which case he shall receive an increase of the amount of one full increment.

Classifications of any employe enumerated in the foregoing salary schedule and the qualifications of such employe must be approved by the board of trustees of the school and the Superintendent of Public Instruction to entitle any employe to the benefits of this act.

The Superintendent of Public Instruction shall be vested with the sole and final authority in interpreting the provisions of this act pertaining to the classification of any person covered thereby.

Section 6. All acts and parts of acts are repealed in so far as they are inconsistent herewith.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, June 1, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 910, Printer's No. 741, entitled "An act establishing minimum compensation and increments for administrators and members of the faculty of the Thaddeus Stevens Trade School; and imposing duties on the board of trustees of such school and the Superintendent of Public Instruction."

This bill would establish minimum salaries for the administrators and members of the faculty of the Thaddeus Stevens Trade School.

While I agree in principle that these employes should be paid on a basis equal to those in the public school system, I do not feel that these salaries should be fixed by statute. These teachers are employes of the executive branch of the government, and their salaries should be established by action of the Executive Board.

For this reason, the bill is not approved.

GEORGE M. LEADER

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No. 51  
AN ACT

Amending the act of July eighteen, one thousand nine hundred seventeen (Pamphlet Laws 1043), entitled "An act establishing a public school employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon boards having the employment of public school employes; exempting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties," authorizing the election of options by certain contributors at any time prior to retirement or death, and providing a presumption of an election in certain cases.

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

Section 1. The act of July eighteen, one thousand nine hundred seventeen (Pamphlet Laws 1043), entitled "An act establishing a public school employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from

contributions by the Commonwealth and contributing employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon boards having the employment of public school employes; exempting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties," is amended by adding, after section 15 three new sections to read:

*Section 15.1. Any contributor who is or was entitled to retire, under the provisions of this act, by reason of having completed twenty-five years of total school service or by reason of having reached superannuation retirement age, may file with the Retirement Board a written application for retirement in the form required for such application, but requesting that such retirement shall become effective as of the time of his or her death, electing one of the options provided in section 15, and nominating a beneficiary under said option as required in said section.*

*In all such cases, the application shall be held by the Retirement Board until the contributor shall file a later application for retirement, or until the death of the contributor occurring while in school service, at which time his retirement shall become effective with the same benefits to the designated beneficiary as if the contributor had retired on the day immediately preceding his death.*

*Any contributor who is or was entitled to retire, under the provisions of this act, by reason of having completed twenty-five years of total school service or by reason of having become eligible for superannuation retirement, and who shall die while in school service before filing with the Retirement Board a written application for retirement as heretofore provided, or who, within ninety (90) days after the termination of his school service and prior to the date of his death, had not entered upon withdrawal or superannuation retirement allowance or withdrawn his accumulated deductions, or has died while in school service and without having filed a written statement as required in sections 14 and 15 of this act, shall be considered as having elected to receive the actuarial equivalent of his or her full superannuation allowance under Option 1, as provided in section 15 of this act, as of the date of his or her death. In such event, payment under Option 1 shall be made to the beneficiary designated in the nomination of beneficiary form by the member and filed with the Retirement Board. If said beneficiary has predeceased the contributor, payment under Option 1 shall be made to the legal representative of said contributor. If the contributor has died while in school service and his or her accumulated deductions have been paid, as provided in subsection 3 of section 12 of this act, to his or her estate or to the beneficiary designated in the nomination of beneficiary form on file with the Retirement Board, there shall be deducted from said payment under Option 1 the amount of said accumulated deductions.*

*Section 15.2. The provisions of section 15.1 shall apply to all contributors who become eligible for retirement before the first day of January, one thousand nine hundred fifty-three, and who have died since that date without having filed a written statement as required in sections 14 and 15 of this act. Application for payment of*



*such benefits shall be made on or before the thirty-first day of December, one thousand nine hundred fifty-six.*

Section 2. This act shall become effective immediately.

Commonwealth of Pennsylvania,  
Governor's Office,  
Harrisburg, June 1, 1956.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 1091, Printer's No. 747, entitled "An act amending the act of July eighteen, one thousand nine hundred seventeen (Pamphlet Laws 1043), entitled 'An act establishing a public school employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon boards having the employment of public school employes; exempting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties,' authorizing the election of options by certain contributors at any time prior to retirement or death, and providing a presumption of an election in certain cases."

This bill would add two new sections to the public school employes' retirement law after Section 15 of that law. The sections are apparently intended to retroactively grant certain options to the estates of deceased members who were eligible for retirement prior to January one, one thousand nine hundred fifty-three, and who have died since that date without having filed an application for retirement and election of option.

I have not been able to ascertain the number of deceased members covered by this bill, nor have I been able to ascertain the cost to the Public School Employes' Retirement Fund that would result from the enactment of this bill. In addition to these objections the language of the bill, in many places, is vague and unintelligible and the bill is probably unconstitutional because of this vagueness.

For these reasons, the bill is not approved.

GEORGE M. LEADER