

HOUSE No. 1785

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT,
STATE HOUSE, BOSTON, February 25, 1947.

To the Honorable Senate and House of Representatives:

In my Inaugural Message I recommended the termination of the Emergency War Time Powers of the Governor. At the same time I suggested that additional legislation might be necessary to cover certain matters presently included within the scope of those war time powers. By way of illustration I mentioned the problem of rent control, and I am aware that your committees are now studying proposals to deal with the situation in the event that federal rent controls are brought to an end.

I have this day issued Executive Order No. 98 which revokes all but twelve of the forty-nine Executive Orders which were still in effect at the beginning of this administration. As to the remaining twelve, they have to do with problems which would seem to require legislation, and I consequently desire to call them to your attention in connection with your bringing to an end the war time powers under which these orders were issued.

The following paragraphs describe briefly the twelve Executive Orders which now remain, together with my recommendations in each case:

MOTOR CARRIER PERMITS.

Executive Order No. 11, issued April 25, 1942, authorized the Department of Public Utilities, when necessary for the promotion of public convenience and necessity, without public hearing, to issue licenses for

the carriage of passengers for hire by motor vehicles; to order common carriers to provide additional services; to order common carriers to eliminate or reduce certain services; and to co-operate generally with the Federal Office of Defense Transportation.

Executive Order No. 76, issued July 25, 1945, amended Order No. 11 by providing that such licenses, orders or permits issued by the Department on or after July 25, 1945, should not take effect until approved in writing by the Governor.

Chapter 159A of the General Laws prescribes the procedure to be observed with reference to the issuance of permits for the carriage of passengers for hire in motor vehicles. Among the statutory requirements are advertising, the holding of public hearings, and the obtaining of approval from municipal authorities. With the sudden growth of existing industries and the construction of new industries in connection with war production in 1942, it became essential to provide transportation facilities to areas and over routes which had not previously been served by existing carriers. Executive Order No. 11 authorized the Department of Public Utilities to issue special licenses or permits without public hearings for the carriage of passengers for hire in any city or town in which the Department should determine that available facilities were inadequate. The Order further provided that carriers licensed pursuant thereto should not be required to procure a local license for the operation of motor vehicles in or through a city or town in which operation was licensed by the Department. Many such special licenses were issued by the Department of Public Utilities.

The amendment contained in Executive Order No. 76 required the approval of the Governor with respect to licenses issued pursuant to Executive Order No. 11 on or after July 25, 1945.

I am advised by the Department of Public Utilities that approximately sixty common carriers are now oper-

ating in the Commonwealth under special licenses or permits granted by the Department pursuant to authority contained in Executive Orders 11 and 76. A recent letter from that Department further states: "If the legislature acts favorably upon His Excellency's recommendation to terminate emergency war powers, all such certificates will be automatically suspended at probable inconvenience to the public now being served. The Department is of the opinion that this situation is one that should be provided for by legislation to prevent the sudden termination of the services now being furnished. Our information is that a majority of such carriers are carrying substantial numbers of passengers and it would seem that a reasonable time should be provided, by legislation, to permit their transfer to a permanent status, if, after public hearing, public convenience and necessity so require."

I recommend the enactment of legislation which would continue for six months the authority of the Department of Public Utilities, as set forth in Executive Order No. 11, with respect to any common carrier who, on the date of enactment of such legislation, is actually operating motor vehicles for the carriage of passengers for hire under the authority of a special license or permit issued by the Department under authority of Executive Orders 11 and 76. I further recommend your consideration of the desirability of legislation to authorize the Department of Public Utilities to issue permanent permits to such carriers if it appears, after public hearing in each case, that public convenience and necessity so require."

WATER SUPPLY AND SEWERAGE FACILITIES.

Executive Order No. 24, issued June 19, 1942, authorized the Metropolitan District Commission to permit Bethlehem-Hingham Shipyard, Inc. to make a connection, at the expense of the latter, with the Metropolitan District Commission Sewer Disposal System.

Executive Order No. 43, issued December 5, 1942, authorized the Metropolitan District Commission, on

application of the government of the United States or of operators of establishments engaged in operations vital to the war, to provide, at the expense of such establishment or the federal government, as the case may be, a connection with the Metropolitan District Commission Water System, and to sell and deliver water through such connection to said establishment or to the federal government.

Chapter 92 of the General Laws, which defines the authority of the Metropolitan District Commission with respect to the sale of water and the furnishing of sewerage facilities, did not authorize that Commission to sell water or to furnish sewerage facilities to private industrial establishments or to agencies of the Federal Government. Because of the construction of war plants, shipyards and other emergency facilities during the war in locations where necessary water supplies and sewerage facilities could not be obtained except by direct connection with the water or sewerage system of the Commission, Executive Orders 24 and 43 were issued, to authorize such connections. Pursuant to those Orders, the Metropolitan District Commission entered into contracts and installed water or sewerage connections with various industrial or other establishments. Three such connections are still being utilized:

(a) Water is still being supplied directly by the Metropolitan District Commission to a plant of the General Electric Company in Lynn.

(b) Water is still being supplied directly by the Metropolitan District Commission to the Murphy General Hospital, a federal hospital in Waltham.

(c) The Bethlehem-Hingham Shipyard, which is now being operated by the United States Navy, still discharges its sewage into the sewerage system of the Metropolitan District Commission.

I am advised that the immediate termination of those services to the hospital and the shipyard would cause substantial harm to the federal agencies involved, and that

unless arrangements can be made by the General Electric Company for a substitute water supply, the termination of its present supply would compel the closing of the plant now being served, with resulting unemployment and serious economic dislocation.

I recommend that legislation be enacted specifically authorizing the Metropolitan District Commission to continue to furnish water and sewerage facilities to the three locations enumerated above, up to and including March 31, 1948, under existing contracts or under such other contracts as may be approved by the Metropolitan District Commission and the Governor. The enactment of such legislation would avoid the harmful effects of an immediate termination and at the same time would give ample opportunity to those directly concerned to study the problem and to work out a satisfactory permanent solution. If it should appear that a permanent solution will require further legislation, the matter can be considered at the next regular session of the Legislature, prior to March 31, 1948.

BRIDGE OVER WEYMOUTH BACK RIVER.

Executive Order No. 34, issued September 3, 1942, authorized the Department of Public Works to alter State Highway Route 3A in Weymouth and Hingham, to lay out a new highway across the Weymouth Back River, and to make plans and specifications for a new bridge across said river, and authorized the government of the United States to construct said bridge, through the Navy Department, at its own expense, and to remove the existing bridge. It also provided that persons whose property was taken or damaged in connection with the new construction might recover damages from the Commonwealth under Chapter 79 of the General Laws.

I am informed that the relocation of the State Highway and the construction of a new bridge over the Weymouth

Back River, as provided for by Executive Order No. 34, have been completed. I am also advised that some of the damage claims asserted in connection with the construction authorized by this order are still pending. I recommend that legislation be enacted confirming the right of recovery of damages as provided in Executive Order No. 34.

WITHHOLDING TAXES ON WAGES AND SALARIES.

Executive Order No. 83, issued December 7, 1945, authorized persons in charge of the payrolls of the Commonwealth and its political subdivisions to withhold on each pay day such amount of the wages or salary of each employee or officer as is required by the Federal Revenue Act of 1945.

I recommend that legislation be enacted to continue such authorization, so that disbursing officers of the Commonwealth and its subdivisions may properly continue to comply with pertinent Federal statutes and regulations concerning withholding taxes on wages or salaries.

AUTOMOBILE DEALER LICENSES.

Executive Order No. 4, issued February 17, 1942, conferred on new car dealers, holding Class 1 licenses under G. L. c. 140, Secs. 57-59, the same privileges enjoyed by holders of Class 2 licenses (used-car dealers) with respect to the acquisition and sale of used cars.

When this Order was promulgated, Class 1 licenses authorized new car dealers to acquire and sell used cars only as an incident to their new car business. The production of new automobiles having practically ceased by February, 1942, it was deemed necessary to authorize holders of Class 1 licenses to engage in the general purchase and sale of used cars, in order that they might remain in business and render other necessary services. While a large number of new automobiles have been

manufactured since the end of the war, I believe that the existing situation is such as to justify legislation to continue, for such additional period as may be fixed by the Legislature, enlarged privileges of Class 1 licensees with respect to used automobiles.

SOLEMNIZATION OF MARRIAGES BY ARMY AND NAVY CHAPLAINS.

Executive Order No. 20, issued on June 9, 1942, authorized chaplains with the armed forces, stationed in Massachusetts, to solemnize marriages therein if one of the parties thereto is a member of the armed forces.

Chapter 207 of the General Laws provides, in section 38, that certain non-residents of Massachusetts may obtain special authorization from the Governor to solemnize marriages within the Commonwealth. In June, 1942, when thousands of men in the armed forces were stationed in Massachusetts just prior to being sent overseas, representatives of the military services requested that authority be granted to chaplains serving within the geographical limits of this Commonwealth to solemnize marriages therein. Executive Order No. 20 was issued in response to that request.

The extreme conditions which prompted the issuance of Order No. 20 no longer exist, and there is much to be said in favor of reverting to the peace-time statutory procedure. However, representatives of the Army and Navy in this area have urged that legislation be enacted to continue the authority of chaplains to solemnize marriages, and they have requested an opportunity to present facts justifying such legislation. I have permitted Executive Order No. 20 to remain in force, pending your consideration of the problem and your action upon it.

In considering this question of marriages performed by non-resident chaplains serving in Massachusetts, you will

doubtless also consider the advisability of continuing in effect the provisions of chapter 408 of the Acts of 1943, relative to births, deaths and marriages taking place on federal reservations.

CIVILIAN WAR ASSISTANCE PROGRAM.

Executive Order No. 54, issued June 1, 1943, provided for an Evacuation and Emergency Welfare Program and a Civilian War Assistance Program for which Federal funds were to be made available on a reimbursement basis.

The Commissioner of Public Welfare has requested authorization to continue some phases of the Civilian War Assistance Program covered by Part II of Executive Order No. 54. Under this program assistance based upon need is granted to repatriated American citizens and their spouses and children under eighteen years of age. These repatriates are returned to this country from various foreign countries by the Department of State. This program is administered by the various local boards of public welfare under the supervision of the state Department of Public Welfare. As the federal government has advanced funds from which the full expense of the program is met, no appropriation or expenditure of state moneys is involved. For the current fiscal year an advance of \$14,990.55 has been received for this purpose, from which expenditures of \$2,055.89 have already been paid. According to federal officials, the number of cases will increase rather than decrease during the next year. Authority is needed to enable the Commonwealth to receive the necessary money from the federal government, to designate local welfare officials as agents to administer the program, to enable the Department of Public Welfare to supervise the program, and to reimburse cities and towns, from federal funds on hand, for such expenditures as are authorized and approved.

I recommend for your consideration legislation to provide the statutory authorization to continue this program

at least until July 1, 1947, the period for which federal funds have already been appropriated.

APPROVING AUTHORITY FOR TRAINING UNDER "G. I.
BILL OF RIGHTS."

Executive Order No. 73, issued August 31, 1944, designated the Board of Collegiate Authority as the appropriate agency of the Commonwealth to compile and furnish to the Administrator of Veterans' Affairs of the federal government a list of educational institutions and industrial establishments within the Commonwealth which are qualified to furnish education and training, including apprenticeship training, to veterans under the "G. I. Bill of Rights," so-called.

Executive Order No. 82, issued on November 14, 1945, amended Order No. 73 by designating the Commissioner of Labor and Industries as the appropriate agency to compile and furnish such information to the Administrator of Veterans' Affairs with respect to establishments qualified to furnish apprenticeship training to veterans under the said "G. I. Bill of Rights."

In section 5 of chapter 552 of the Acts of 1946, approved on June 13, 1946, the Legislature ratified and confirmed the issuance of Executive Order No. 73 as above described. The statute contains no reference to Executive Order No. 82.

In my opinion, the uncertainty created by the 1946 enactment should be clarified. I recommend legislation specifically confirming the designation of the Commissioner of Labor and Industries as the approving authority of the Commonwealth with respect to apprenticeship training for veterans under the "G. I. Bill of Rights."

DEFINITIONS AND RULES OF CONSTRUCTION.

Executive Order No. 7, issued March 16, 1942, provided that certain rules of construction and definitions contained in the General Laws relative to statutes should be applicable to Executive Orders.

Upon the termination of the Governor's emergency war-time powers there will be no occasion for legislation to replace Executive Order No. 7. Pending such termination, this Order should remain in force.

LEGALITY OF ACTIONS TAKEN.

I further recommend that there be included, in legislation terminating the emergency war powers of the Governor, a provision to the effect that the legality of any act theretofore done in accordance with any of the Executive Orders issued by the Governor pursuant to said emergency powers shall not be affected by such termination.

TEMPORARY STATUTES.

The foregoing message pertains particularly to the emergency war-time powers of the Governor. It seems appropriate, also, to mention the fact that there are numerous emergency statutes now on the books, dealing with various war-time problems. Some of them are, by their terms, effective only during the present national emergency, or during the existing state of war. I believe that a study of such statutes will disclose many which are no longer necessary or desirable, and which should be repealed. As to others, it may be advisable to extend their effective period or to incorporate them in permanent legislation. I recommend such a study for your consideration.

ROBERT F. BRADFORD,
Governor of the Commonwealth.

