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1949
STATE OF SOUTH CAROLINA
EXECUTIVE CHAMBERS
COLUMBIA

aw 11.1949

MR. PRESIDENT AND GENTLEMEN OF THE SENATE:

I am herewith returning to your Honorable Body Senate Bill No. 104, and Act No. 246 entitled "TO AMEND THE PROBATION AND PAROLE LAW, SECTIONS 1038-10, 1038-11 and 1038-4, SO AS TO PROVIDE THAT ONE SENTENCED TO LIFE IMPRISONMENT OR ANY PERIOD IN EXCESS OF THIRTY(30) YEARS, SHALL BE ELIGIBLE FOR PAROLE AFTER THE SERVICE OF TEN (10) YEARS; THAT ONE SENTENCED TO MORE THAN SIX (6) MONTHS MAY BE ELIGIBLE FOR PAROLE AFTER SERVICE OF ONE-THIRD OF HISSENTENCE; THAT THE SOUTH CAROLINA PROBATION AND PAROLE BOARD, BY A TWO-THIRDS (2/3) MAJORITY VOTE OF ALL ITS MEMBERS, MAY RECOMMEND ONE TO PAROLE, AND THAT A DEFENDANT, BEING BROUGHT BEFORE A JUDGE TO HAVE HIS PROBATION REVOKED, MAY BE SENTENCED BY THE JUDGE TO THE SERVICE OF LESS THAN THE FULL TERM OF THE ORIGINAL SENTENCE, LEAVING THE SENTENCE OTHERWISE FULLY OPERATIVE."

The language in one paragraph of this act attempts to require approval by the Governor in parole cases. The act fails to take into consideration the recent constitutional amendment restricting the power of the Governor in clemency matters to that of commutation in capital cases and the granting of reprieves. I am certain it was not the intent of the legislature to do this when it passed this act, as such provision would be contrary to the constitutional amendment recently ratified bestowing full responsibility for such action on the Probation, Parole and Pardon Board.

Further, another provision of this act states specifically that the Probation, Parole and Pardon Board shall not permit arguments or appearances before it. Amendments by the legislature to the original act as set out in the 1942 code now provide for open hearings, arguments and appearances, and I am constrained to feel that the legislature did not intend, through the passage of this act, to prevent open hearings, arguments and appearances before the Board.

There are other provisions in the act which require correction. I am in full accord with the intent of this act, however, I am

28

convinced that this act could cause much unnecessary litigation and result in a disruption of our clemency processes, as now provided for under law and in the constitution as recently amended. I have conferred with the Director of the Probation, Parole and Pardon Board and he concurs in this conclusion, and has requested that I veto the act.

For the foregoing reasons I am vetoing this act, in order that another one, properly drawn, may be introduced that will accomplish the purposes for which this act was intended.

Respectfully submitted,

J. Strom Thurmond
Governor

April 11, 1949
JST:kg