

"There is some feeling in this Department that this language, like that of the title, does not effect any change in existing law, i.e., it provides only for the forfeiture of interest and charges above the legal rate of interest. However that may be, it is my feeling that the body of the bill as amended does reflect an attempt to provide for the forfeiture of all interest, including 'legal' interest, when usury is found in any transaction. If this is true, the title is misleading and runs counter to the spirit, if not the letter, of Article III, Sec. 29 of the Constitution of Maryland, in that there is a divergence between the title and body of the bill.

"Sec. 5 of Article 49, which House Bill 44 does not purport to amend, provides that 'the plaintiff (i.e., the creditor) shall be entitled to recover the sum of money . . . actually lent or advanced with legal interest from the time the same was so lent or advanced.' If the bill was intended to have the broad significance suggested in the preceding paragraph, the failure to eliminate this diametrically opposed provision is difficult to understand.

"Of even greater practical import is the fact that the Court of Appeals has held that a statute of this type may be applied even to obligations in existence on the effective date of the bill. *Baughner v. Nelson*, 9 Gill 299; *Wilson v. Hardesty*, 1 Md. Ch. 66. In other words, legal obligations which have been in effect for many years may be affected if this law is approved.

"The case law in Maryland on this aspect of usury, while broadly stated, is not extensive. In addition, recent years have seen great proliferation of charges made by lending institutions. At least some of these are untested as to their relationship with the law of usury.

"In conclusion, let me say that there have been many grave doubts raised as to the constitutionality of this bill; and there is no question but that the meaning, effect and proper legal application of this bill are shrouded with ambiguity. I certainly do not attempt to advise you on matters of policy or question the economic philosophy which might have motivated the introduction and passage of this bill. However, since this bill does influence a cover a broad cross section of the commercial and financial interests operating within this State, I do feel that it is my obligation to point out to you its obvious shortcomings. It would further appear that the legislation presented in this bill is the type that might well receive extensive study from the Legislative Council, which it did not receive, and proper recommendations from that body. This is especially true, since our present laws pertaining to usury are of 18th and 19th century vintage.

"I am always prompt to encourage any legislative action which seeks to frustrate usurious financing. However, frankness compels me to state that, short of obtaining a declaratory decree on this bill, I do not believe that anyone can advise you with certainty that this bill goes beyond the present existing laws and, therefore, is unnecessary, or that it goes far beyond existing laws to the extent that it might well impair legitimate lenders."

In view of the foregoing opinion of the Attorney General, I feel that I have no alternative than to veto the Bill.

I agree with the Attorney General that the subject matter of this Bill deserves extensive study. As a matter of fact, in 1961 I appointed a Commission to Study Article 49 of the Maryland Code