

monwealth * * * sums of money," to give receipts "for such moneys accepted as a loan to this Commonwealth," and to issue for moneys received, obligations of the Commonwealth in the form of bonds known as "Industry Bonds." This provision is one of the basic provisions of the bill and clearly violates Article IX, Section 4 of the Constitution, which prohibits the creation by or on behalf of the State of any debt except to supply casual deficiencies of revenue, repeal invasion, suppress insurrection, defend the State in war, or pay existing debt, or for improving or rebuilding the highways of the Commonwealth.

Furthermore, Section 24 of the bill provides that the board of trustees shall have the power to use the money borrowed upon the credit of the Commonwealth for the purpose, among others, of loaning to any employer, association, firm, copartnership, or corporation "such sum or sums in whole or in part as in their judgment * * * may be considered sufficient to enable such industry to resume its business," taking from the borrower certain types of security. This provision would be a violation of Article IX, Section 6 of the Constitution, which provides that the credit of the Commonwealth shall not be pledged or loaned to any individual, company, corporation, or association.

Very truly yours,

DEPARTMENT OF JUSTICE,
WM. A. SCHNADER,
Attorney General.

OPINION NO. 32-C

Legislature—House of Representatives—Constitutionality of House Bills Nos. 42 to 57 inclusive; 59 to 61 inclusive; 64 to 68 inclusive, Extraordinary Session of 1931.

The Attorney General advises the Speaker of the House of Representatives regarding the constitutionality of House Bills Nos. 42 to 57 inclusive; 59 to 61 inclusive; 64 to 68 inclusive. Extraordinary Session of 1931.

Department of Justice,
Harrisburg, Pa., November 30, 1931.

Honorable C. J. Goodnough, Speaker of the House of Representatives,
Harrisburg, Pennsylvania.

Sir: In accordance with the resolution of the House of Representatives adopted November 10, 1931, I shall give you my opinion as to the constitutionality of House Bills Nos. 42 to 68 inclusive.

House Bill No. 42, Authorizing any County, City, Borough, Township or Poor District for the purpose of Furnishing Employment to the Unemployed, to Undertake Certain Public Improvements, Poor Districts to Furnish Labor under Certain Conditions and All of Said Political Subdivisions to Provide Funds for the Purposes Specified. In my opinion, this bill comes within Subject No. 5 of the Governor's original proclamation convening the Special Session of the Legislature and would be constitutional if enacted.

House Bill No. 43, Allowing Sunday Theatrical Performances and Athletic Contests and House Bill No. 44, Prohibiting the Employment in State Service of Any Husband Whose Wife is Employed in the State Service. These bills could not possibly be considered as coming within any of the subjects stated by the Governor in his original and supplemental proclamations convening the Special Session of the Legislature. They could not, therefore, validly be enacted.

House Bills Nos. 45 and 46 propose constitutional amendments. As you have already been advised, any constitutional amendments may be proposed at a Special Session, whether or not they come within the subjects stated by the Governor in his call.

House Bill No. 47, Appropriating One Million Eight Hundred Fifty Thousand Dollars (\$1,850,000) out of the Motor License Fund to be Paid to Counties of the First Class for the Construction, Reconstruction, Maintenance and Repair of Roads and Highways within Such Counties. Clearly, this bill does not come within any subject specified by the Governor in his original or supplemental proclamations and would be unconstitutional if passed.

House Bill No. 48, Making an Appropriation from the "Unemployment Relief Fund" to Be Used for the Removal of Pollution from the Navigable Rivers of the Commonwealth. This bill is predicated upon a misconception of the nature of the "Unemployment Relief Fund," which will be created by House Bill No. 4, if enacted. Under that bill the Unemployment Relief Fund would not be a fund in the State Treasury subject to appropriation. It would consist exclusively of contributions to be used for the purposes specified by the contributors. It would be held by the State Treasurer as custodian only. In any event, the appropriation contemplated by the bill would not come within any of the subjects specified by the Governor in either of his proclamations, and would, therefore, be void, if enacted.

House Bill No. 49, Proposing an Appropriation of Twenty-Two Million Dollars (\$22,000,000) to the City of Philadelphia from the "Unemployment Relief Fund." For the same reasons stated in discussing House Bill No. 48, this bill would be unconstitutional, if passed.

House Bill No. 50, Appropriating to the City of Philadelphia Five Hundred Thousand Dollars (\$500,000) out of the Motor License Fund

for the Maintenance and Repair of Certain Streets in Said City. Like House Bill Nos. 48 and 49, this bill does not come within any of the subjects stated by the Governor and could not validly be passed.

House Bill No. 51, Creating a State Highway Survey Commission and Appropriating Two Hundred Thousand Dollars (\$200,000) for Its Work. Subject No. 4 of the Governor's supplemental proclamation issued November 9, 1931, contemplates new or increased appropriations "to the Governor or any department, board or commission of the State government * * * to enable additional projects to be undertaken which will give work to the unemployed * * *." In my opinion, this subject is not sufficiently broad to cover the creation of new departments, boards or commissions. It refers only to the appropriation of money to existing agencies of the State government. Therefore, in my opinion the bill, if passed, would be unconstitutional.

House Bill No. 52, Imposing a State Tax upon the Manufacture of Malt and Brewed Liquors. This bill is clearly not within any of the subjects stated by the Governor in his proclamation and cannot validly be enacted.

House Bill No. 53, Authorizing the Commonwealth to Borrow Fifty Million Dollars (\$50,000,000) for Unemployment Relief. This bill, if enacted, would be a palpable violation of Article IX, Section 4, of the Constitution. It would be void.

House Bill No. 54, Prohibiting the Employment in State Service of Any Married Person Whose Spouse is Employed in a Gainful Occupation. This bill does not come within any of the subjects stated by the Governor and would be unconstitutional, if passed.

House Bill No. 55 proposes a constitutional amendment.

House Bill No. 56, Proposing to Amend the Liquid Fuels Tax Act by Authorizing Refunds in Certain Cases. This bill does not come within any of the subjects stated by the Governor and could not validly be enacted.

House Bill No. 57, Authorizing a State Bond Issue for Unemployment Relief and Appropriating the Proceeds Thereof to the Counties of the Commonwealth. The bond issue proposed by this bill would violate Article IX, Section 4, of the Constitution, and the appropriation would violate Article III, Section 18. Accordingly, the bill would be void if passed.

House Bill No. 59, Proposing to Amend the "Sunday Laws." This bill is clearly foreign to any of the subjects specified in the Governor's proclamations and could not validly be passed at this Session.

House Bill No. 60, Appropriating Five Million Dollars (\$5,000,000) for the Acquisition of Additional Forest Lands and for Forest Protection, Development, etc. This bill comes within Subject No. 4 of

the Governor's supplemental proclamation, and would be constitutional, if enacted.

House Bill No. 61, Authorizing the Use of a Million Dollars (\$1,000,000) of the Motor License Fund for Township Reward. This bill would be of doubtful constitutionality. It could be sustained only upon the theory that it is an additional appropriation to the Department of Highways "to enable additional projects to be undertaken which will give work to the unemployed," thus bringing it within Subject No. 4 of the Governor's supplemental proclamation. However, as all of the moneys in the Motor License Fund have already been appropriated and as I understand can be expended during the present biennium, it is difficult to see how this appropriation could be construed as authorizing "additional projects to be undertaken." If it could be shown to have this effect, it would come within the call for the Special Session; otherwise it would not.

House Bill No. 64, Appropriating One Hundred Million Dollars out of the State Treasury to the Counties of the Commonwealth in Proportion to Their Population. This bill would, in my opinion, necessarily be held to be in violation of Article III, Section 18, of the Constitution, and could not be sustained, if enacted.

House Bill No. 65. This bill is identical with House Bill No. 61.

House Bill No. 66, Providing for Preference to Citizens of Pennsylvania in Employment in Public Works of the State. This bill does not come within any of the subjects specified by the Governor in his proclamation and could not validly be enacted.

House Bill No. 67, Making an Appropriation to the Department of Property and Supplies for the Erection of Armories. This bill comes within Subject No. 4 of the Governor's supplemental proclamation and would, in my opinion, be constitutional, if passed.

House Bill No. 68, Authorizing a County Tax on Billboard and Outdoor Advertising. In my opinion, this bill comes within Subject No. 15 of the Governor's original proclamation and would be valid, if enacted.

Very truly yours,

DEPARTMENT OF JUSTICE,
WM. A. SCHNADER,
Attorney General.

OPINION NO. 32-D

Legislature—House of Representatives—Constitutionality of House Bills Nos. 69 to 76 inclusive, Extraordinary Session of 1931.