

funds which trust companies hold as executor, administrator, trustee, guardian or in other fiduciary capacities. It has nothing to do with deposits or depositors.

If a school board were to enter into an agreement whereby the trust company would be created a trustee for the administration of the school funds, in such a manner as to bring the money within the terms of the Act of 1929, the school board would be surrendering control of its funds. This it could not lawfully do. Consequently, the Act of 1929 could not have any application to or be of any help in the situation you have described.

Therefore, we advise you that the Act of April 11, 1929, P. L. 512, does not furnish any authority for the deposit of school funds or any other funds in the trust departments of trust companies. Nor does it afford protection of any kind to school districts or school directors in respect to moneys on deposit. It has no application to such matters.

Very truly yours,

DEPARTMENT OF JUSTICE,
HARRIS C. ARNOLD,
Deputy Attorney General.

OPINION NO. 45

State government—Contracts—Interest of "member or officer of any department"—Constitution, Art. III, Sec. 12—The Administrative Code of 1929, Sec. 516—Applicability to members of legislature.

1. Article three, section twelve, of the Constitution of Pennsylvania forbids a member of the legislature to make or be otherwise interested in a contract for the sale to the Commonwealth of stationery, printing, paper or fuel, or for repairing or furnishing the halls and rooms used for the meetings of the general assembly or its committees.

2. Section 516 of The Administrative Code of 1929 prevents the executive department from awarding any contract for stationery, printing, paper, fuel, furniture, materials or supplies or for the repairing or furnishing of halls and rooms used for the meetings of the general assembly or its committees, in which any member of the legislature is in any way interested.

3. The words "member or officer of any department of the government," as used in article three, section twelve, of the Constitution and in section 516 of The Administrative Code of 1929, apply to members and officers of the legislative as well as of the executive and judicial departments of the state government.

Department of Justice,
Harrisburg, Pa., April 11, 1932.

Honorable Alice F. Liveright, Secretary of Welfare, Harrisburg, Pennsylvania.

Dear Mrs. Liveright: You have inquired whether there is any constitutional or statutory provision prohibiting a member of the Legislature from selling supplies to a State institution.

Article III, Section 12 of the Constitution is as follows:

"All stationery, printing, paper and fuel used in the legislative and other departments of government shall be furnished, and the printing, binding and distributing of the laws, journals, department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the General Assembly and its committees, shall be performed under contract to be given to the lowest responsible bidder below such maximum price and under such regulations as shall be prescribed by law; *no member or officer of any department of the government shall be in any way interested in such contracts*, and all such contracts shall be subject to the approval of the Governor, Auditor General and State Treasurer."

Section 516 of The Administrative Code of 1929 (Act of April 9, 1929, P. L. 177) is as follows:

"No member or officer of any department of the government shall be in any way interested in any contract for furnishing stationery, printing, paper, fuel, furniture, materials, or supplies, to the State Government, or for the printing, binding, and distributing of the laws, journals, department reports, or any other printing and binding, or for the repairing and furnishing the halls and rooms used for the meetings of the General Assembly and its committees."

You will observe that Article III, Section 12 of the Constitution is narrower in its effect than Section 516 of The Administrative Code. The constitutional provision applies only to contracts for stationery, printing, paper, fuel, printing and binding, and the repairing and furnishing of the halls and rooms used for the meetings of the General Assembly and its committees. The Administrative Code, on the other hand, includes in addition furniture, materials, and supplies.

In our opinion the words "no member or officer of any department of the government" apply to members or officers of the Legislature as well as to members or officers of the executive or judicial departments of the government. We interpret the words "any department," as

used in Article III, Section 12 of the Constitution, as applying to any one of the three co-ordinate branches of the government,—legislative, executive, and judicial.

Therefore, a member of the Legislature cannot make or be otherwise interested in a contract to sell to the State stationery, paper, fuel, furniture, materials, supplies, printing or binding, or make or be interested in any contract for repairing and furnishing the halls and rooms used for the meetings of the General Assembly.

The fact that The Administrative Code of 1929 applies exclusively to the conduct of the executive and administrative work of the Commonwealth by the executive department thereof, does not in any way affect our opinion as already expressed. The limitation contained in Section 516 is upon the action of executive officers in entering into contracts of certain kinds. It is true that members and officers of the Legislature and of the judiciary are affected; but the regulation is primarily binding upon the executive department in limiting the scope of its action in awarding contracts.

We are not obliged, in order to answer your question, to construe the meaning of the word "member" as applied to the executive branch of the government. Whether or not an ordinary employe is a member of the executive branch of the government, it is not necessary now to decide; but without deciding the question, it is clear that the spirit, if not the letter, of Section 516 of The Administrative Code forbids any employe of the State from being interested in any contract for the sale to the Commonwealth of any of the articles specified.

Very truly yours,

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

OPINION NO. 46

Unemployment Relief—Appropriation—Extraordinary Session of 1931—Department of Welfare—Allocations—Requisitions. Act No. 7E, 1931, P. L. 1503.

Allocations which the Department of Welfare is required to make under Sec. 2 of Act No. 7E, 1931, P. L. 153, should be based on tables compiled and furnished by the Department of Labor and Industry.

Requisitions against the appropriation should be drawn:—

(a) Where a county and a poor district are co-extensive, the requisitions should be payable to the county poor district.

(b) Where a county is not coextensive with a poor district, requisitions should be payable to the county treasurer.

(c) Requisitions for the allocations to Philadelphia County should be payable to the City Treasurer of Philadelphia.