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FILE NO. S-309

CONSTITUTION:
ARTICLE IV, Section 8(d); Section 9

The Honorable Richard B. Ogilvie
Governor
207 State House
Springfield, Illinois 62706

Dear Governor Ogilvie:

I have your letter of May 19, 1971, as follows:

"I would appreciate receiving the benefit of your opinion as to the effect of Section 9, Article IV of the Constitution of 1970, in terms of its application to legislation enacted by the General Assembly prior to July 1, 1971.

I direct your attention to the following specific questions:

1. Does the requirement of Section 9(a) concerning presentment to the Governor within 30 calendar days after passage of a bill require that legislation be presented to the Governor 30 days from July 1, 1971 when the provision itself becomes effective or does it require presentment of bills 30 days after the actual date of the bill's passage even if it occurred prior to July 1, 1971?
2. As to bills presented to the Governor prior to July 1, 1971 and still held by him on the effective date of the new Constitution, is the terminal date of the Governor's action to be measured by the Constitution of 1870 or by 60-day rule of

Section 9(b) of the Constitution of 1970? If, in your opinion, the 60-day rule of the 1970 Constitution does apply, are the 60 days to be counted from the actual day of presentment or from the effective date of the new Constitution?

3. With respect to bills passed prior to July 1, 1971, but considered by the Governor on or after that date, may he exercise the powers of review vested in him under Section 9 of the Constitution of 1970, or are his powers limited to those set forth in Article V, Section 16 of the Constitution of 1870?
4. If, prior to July 1, 1971, the Governor returned a vetoed bill to the General Assembly and the General Assembly was still then in session, but subsequently recessed or adjourned prior to July 1, 1971 without having taken action with respect to that veto, do the provisions of Section 9(c) apply? If so, is the 15 calendar day period to be measured against the day on which the veto message was first journalized or is it measured from July 1, 1971, the effective date of the new Constitution?
5. Under the provisions of Section 9(e), do the 30-day rule concerning presentment and the 60-day rule concerning the Governor's review apply to a bill which is presented to the Governor for certification that the action of the General Assembly conforms to his recommendations?
6. As a general matter, I would appreciate your opinion as to whether the time periods identified in Section 9 are to be measured beginning the count with the actual date the event occurs or with the first full calendar day after the day of the event.

I would also appreciate your construction of Section 8(d) which requires the Speaker of the House and President of the Senate to sign each bill that passes both houses certifying that procedural requirements for passage have been met.

Specifically, I request your opinion on the question whether this provision must be satisfied in the form of bills presented to the Governor after June 30, 1971, even though the bill passed both houses prior to July 1, 1971. If so, will the signatures alone satisfy this requirement or will specific wording of certification be necessary?

Thank you for your continuing courtesies."

At the outset the rules for construction of the Constitution, as stated by the Illinois Supreme Court, should be noted. In the People v. Crawley, 274 Ill 139, 142, the Court said:

"* * * * * The general principles governing the construction of constitutions are the same as those that apply to statutes. * * * * * In construing constitutions, as with statutes, the chief purpose is to give effect to the intent of the makers. * * * In seeking such intention we are to consider the language used by the legislature, the evil to be remedied and the object to be attained. We are not confined to the literal meaning of the words. A thing within the intention is regarded within the statute though not within the letter. A thing within the letter is not within the statute if not within the intention. When the intention can be gathered from the entire document, words may be modified or altered so as to obviate all inconsistency with such intention. When great inconvenience or absurd consequences will result from a particular construction the courts are bound to assume that such consequences are not intended. * * * * *

In Graham v. Dye, 308 Ill 283, 286, the Court said:

" * * * * * The intent and meaning of the constitution are to be determined from the language used in its provisions. We said in People v. Stevenson, 281 Ill. 17: 'As a constitution is dependent upon adoption by the people, the language used will be understood in the sense most obvious to the common understanding. The language and words of a constitution unless they be technical words and phrases, will be given effect according to their usual and ordinary signification, and courts will not disregard the plain and ordinary meaning of the words used, to search for some other conjectural intention.' In City of Beardstown v. City of Virginia, 76 Ill. 34, the court said, in the construction of the meaning of constitutional provisions the intent is determined from the meaning of the words used, and that when words have a definite meaning it is not allowable to go elsewhere in search of conjecture or resort to subtle or forced construction for the purpose of limiting or extending their meaning and effect.

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In People v. Barrett, 370 Ill. 478, 480, the Court said:

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* * * * * It is a well-recognized canon of constitutional construction that the chief purpose sought to be attained is the intention of its framers. In seeking such an intention courts are to consider the language used, the object to be attained or the evil to be remedied. Where the constitutional provisions are not applicable, no limitation exists upon the legislative body. In the construction of the constitution courts should not indulge in speculation apart

from the spirit of the document, or apply so strict a construction as to exclude its real object and intent. * * * * *

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The Constitution of 1970 provides:

ADOPTION SCHEDULE

Section 1

"Except as otherwise provided in Section 1 of the Transition Schedule, this Constitution, if approved by the electors as provided by the Constitution of 1870, as amended, shall take effect on July 1, 1971, and the Constitution of 1870, as amended, shall thereafter be of no force and effect except to the extent that the contingencies provided for in Section 6 of this Adoption Schedule may require."

ARTICLE IV (The Legislature)

Section 8:

"(d) * * * * *

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The Speaker of the House of Representatives and the President of the Senate shall sign each bill that passes both houses to certify that the procedural requirements for passage have been met."

Section 9:

"(a) Every bill passed by the General Assembly shall be presented to the Governor within 30 calendar days after its passage. The foregoing requirement shall be judicially enforceable. If the Governor approves the bill, he shall sign it and it shall become law.

(b) If the Governor does not approve the bill, he shall veto it by returning it with his objections to the house in which it originated. Any bill not so returned by the Governor within 60 calendar days after it is presented to him shall become law. If recess or adjournment of the General Assembly prevents the return of a bill, the bill and the Governor's objections shall be filed with the Secretary of State within such 60 calendar days. The Secretary of State shall return the bill and objections to the originating house promptly upon the next meeting of the same General Assembly at which the bill can be considered.

(c) The house to which a bill is returned shall immediately enter the Governor's objections upon its journal. If within 15 calendar days after such entry that house by a record vote of three-fifths of the members elected passes the bill, it shall be delivered immediately to the second house. If within 15 calendar days after such delivery the second house by a record vote of three-fifths of the members elected passes the bill, it shall become law.

(d) The Governor may reduce or veto any item of appropriations in a bill presented to him. Portions of a bill not reduced or vetoed shall become law. An item vetoed shall be returned to the house in which it originated and may become law in the same manner as a vetoed bill. An item reduced in amount shall be returned to the house in which it originated and may be restored to its original amount in the same manner as a vetoed bill except that the required record vote shall be a majority of the members elected to each house. If a reduced item is not so restored, it shall become law in the reduced amount.

(e) The Governor may return a bill together with specific recommendations for change to the house

in which it originated. The bill shall be considered in the same manner as a vetoed bill but the specific recommendations may be accepted by a record vote of a majority of the members elected to each house. Such bills shall be presented again to the Governor and if he certifies that such acceptance conforms to his specific recommendations, the bill shall become law. If he does not so certify, he shall return it as a vetoed bill to the house in which it originated."

Under Section 1 of the Adoption Schedule, above quoted, any action by the Legislature or the Governor or any time limitations or requirements pertaining to legislation or bills is to be determined by the Constitution of 1870 up to July 1, 1971, and as of that date, to be determined solely by the Constitution of 1970. Based on this conclusion and interpretation, I have the following views on your questions.

The answer to question number 1 is ARTICLE IV, Section 9(a) requires that a bill passed prior to July 1, 1971, not theretofore presented to the Governor, must be presented to the Governor within 30 calendar days after its passage.

The answer to question number 2 is the provisions of ARTICLE IV, Section 9(b) of the Constitution of 1970 apply to any bills presented to the Governor less than 10 days (Sundays excepted), prior to July 1, 1971 and still held by him on that

date. This means that the Governor has 60 calendar days within which to return the bill after it is presented to him which also means that such 60 days are to be counted from the actual day of presentment of the bill to the Governor. The reference herein to the ten-day period arises from the requirement of Article V, Section 16 of the 1870 Constitution.

The answer to question number 3 is the provisions of ARTICLE IV, Section 9 of the Constitution of 1970 applies.

The answer to question 4 is that the provisions of Article IV, Section 9(c) apply to all vetoed bills returned by the Governor to the General Assembly on or after July 1, 1971 and, as herein-after noted, to a limited extent to certain bills returned by the Governor prior to July 1, 1971. The Constitution of 1870 applies with respect to all vetoed bills returned to the General Assembly up to July 1, 1971 insofar as action of the General Assembly is concerned up to that date. As of July 1, 1971, the provisions of Section 9(c) of the Constitution of 1970 would apply to any General Assembly action on any vetoed bills then pending and undisposed of in the General Assembly. The fifteen calendar days would in any event be computed from and including the day after

the Governor's objections are entered in the journal of the originating house.

The answer to question number 5 is the time limits prescribed in ARTICLE IV, Section 9(a) and 9(b) apply as well to a bill presented to the Governor for certification under Section 9(e). It is noted Section 9(e) provides that when the bill is returned by the Governor to the originating house with specific recommendations for change it shall be considered in the same manner as a vetoed bill except that the specific recommendations may be accepted by a vote of the majority of the elected members to each house. Section 9(e) further provides that such bills shall be presented again to the Governor for his certification whereupon it shall become law, or if he does not certify, he shall return the bill as a vetoed bill to the originating house. Since Section 9(e) provides that the bill shall be presented again to the Governor, and since Section 9(a) and 9(b) both provide for time limits after a bill is "presented" to the Governor, it is evident that such time limits likewise apply to a bill returned and presented to the Governor pursuant to Section 9(e) and to the Governor's action thereon with respect to certification.

The answer to question number 6 is the time periods specified in ARTICLE IV, Section 9, are to be measured commencing with the calendar day following the day on which the event occurs. It is observed that the language in Section 9 in connection with and immediately following the periods of time specified uses the word "after". In Webster's New International Dictionary, 2nd Edition, Unabridged, "after" is defined as:

"subsequent to; following the expiration of; in legal consideration where a time is expressed as to be computed, or an act as to be done, after a certain date, the word after is usually judicially construed as not intended to include the day or period governed by the word after; thus 30 days after April 1st would include the period beginning with April 2d and including May 1st; two months after July would include all of August and September; 10 days after sight of a draft would include ten days subsequent to, and not including, the day of its presentation. But the word may be construed to include the day or period referred to, as where this will plainly give effect to the intention of the user, as in a devise or a statute to subserve public policy, avoid a forfeiture, etc."

In Ballentine's Law Dictionary, Third Edition, "after" is defined as:

"Behind; later in point of time. Where an act is to be performed within a specified period "after" a day named, the general rule is to exclude the day designated and to include the last day of the specified period. 52 Am J1st Time §27."

The answer to the final question is the provisions of ARTICLE IV, Section 8(d) apply and require the Speaker of the House and President of the Senate to sign each bill that passes both houses certifying that the procedural requirements for passage have been met for all bills that are passed on or after July 1, 1971, and all bills that are passed prior to July 1, 1971, which have not been signed by the Speaker and President as of July 1, 1971, in accordance with the requirements of ARTICLE IV, Section 13 of the Constitution of 1870. ARTICLE IV, Section 8 of the Constitution of 1970 expressly provides that each bill that passes both houses be signed by the Speaker of the House of Representatives and the President of the Senate. That portion of Section 8 reading "to certify that the procedural requirements for passage have been met" does not require that an express statement to such effect be signed. Section 8 does not clearly and expressly say this is required. It says that the officers shall "sign each bill". It does not say that they shall sign a certificate or that they shall certify. It provides, as I interpret it, the effect of their signing of a bill.

The Honorable Richard B. Ogilvie - 12 -

It is my opinion that only signing of each passed bill by the Speaker and President is required and that no specific wording or certification is necessary.

Very truly yours,

A T T O R N E Y G E N E R A L