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SPRINGFIELD

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FILE NO. S-310

CONSTITUTION:
77th General Assembly
Continuous Body

Honorable Cecil A. Partee
President Pro Tempore
Illinois State Senate
State House
Springfield, Illinois

Honorable W. Robert Blair
Speaker, House of Representatives
State House
Springfield, Illinois

Dear Senator Partee:
Dear Mr. Speaker:

Senator Terrel E. Clarke, Assistant Minority Leader,
has asked the following question:

"Is the 77th General Assembly terminated on the day the 1970 Constitution takes effect, July 1, 1971, or does Section 9 of the Transition Schedule of the Constitution of 1970 permit the 77th General Assembly to function as a continuous body until the Second Wednesday of January, 1973?"

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This is a question of importance which involves both the on-going nature of the General Assembly under Article IV and the broad effects of the Schedules.

My judgment is that the 77th Illinois General Assembly is not terminated on July 1, 1971. Section 9 of the Transition Schedule clearly permits the 77th General Assembly to function as a continuous body until the second Wednesday of January, 1973, at which time the 78th General Assembly shall convene.

Consequently, the 77th General Assembly may, for example, recess prior to July 1, 1971, by adjournment to a time certain after June 30, 1971, should it feel appropriate.

Additionally, the 1970 Constitution requires the 77th General Assembly to convene anew on the second Wednesday of January, 1972.

The obvious and traditional purposes of a schedule in a new constitution are to provide for an orderly transition from the old constitution, and to establish temporary regulations for the interim until new machinery and proceedings are

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constructed. Such purposes are abundantly evident in the Transition Schedule and Adoption Schedule of the 1970 Illinois Constitution.

Section 1 of the Adoption Schedule provides:

"Except as otherwise provided by 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."

This language in no way suggests that the authority, rights and duties of the 77th General Assembly, initially assumed under the 1870 Constitution, terminate on July 1, 1971.

It is, rather, the necessary effect of the Schedules and 1970 Constitution to repeal, alter or modify General Assembly authority, rights and duties, and procedures only to the extent inconsistent with the new constitution. This is clarified by Section 9 of the Transition Schedule, providing for a general transition:

"The rights and duties of all public bodies shall remain as if this Constitution had not been adopted with the exception of such changes as are contained in this Constitution. All laws, ordinances, regulations and rules of

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court not contrary to, or inconsistent with, the provisions of this Constitution shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to this Constitution. * * *"

The 77th General Assembly, being a "public body", cf., 1970 Ill. Const., Art. IV, Sec. 5(a), retains all rights and duties which it has under the 1870 Constitution, unless changed by the 1970 Constitution. Thus, unless so changed, the 77th General Assembly may continue to function, with the right to adjourn to a time certain, after June 30, 1971. Cf., Opinions of Ill. Attorney-General, 1966, pp. 186, 189 (annual sessions; adjournment to a time certain).

No language in the 1970 Constitution requires termination of the 77th General Assembly on July 1, 1971. To the contrary, Article IV, Section 5(a) expressly permits a continuing session:

"* * * The General Assembly shall be a continuous body during the term for which members of the House of Representatives are elected."

This provision "constitutionally mandates that the General Assembly shall be a continuous body during each two year term of the House of Representatives." Committee on Legislative Article Majority Report, p. 68, Sixth Illinois Constitutional Convention (1970).

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The 77th General Assembly convened in January, 1971. It shall be and remains a continuous body during the constitutional term of House members elected thereto, i.e., until the 78th General Assembly is convened on the second Wednesday of January, 1973.

It must be emphasized that, whatever the decision of the 77th General Assembly as to continuing the session after June 30, 1971, the 1970 Constitution, Art. IV, Sec. 5(a) additionally requires that Assembly to convene anew on the second Wednesday of January, 1972:

"The General Assembly shall convene each year on the second Wednesday of January.* * *"

This provision "commits Illinois to annual sessions through providing that the General Assembly shall convene each year on the second Wednesday of January . . ." Committee on Legislative Article Majority Report, p.68, Sixth Illinois Constitutional Convention (1970).

It "implicitly states that all legislation introduced in the first year of the two year term shall carry over to the second year." Id., at p. 69.

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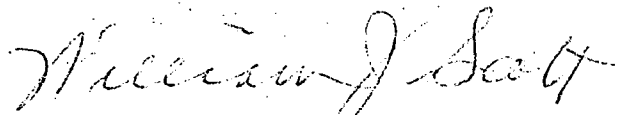
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Article IV, Sec. 5(b), further, provides for special sessions called by proclamation by either the Governor or presiding officers of both houses in the event the General Assembly has adjourned. Joint proclamation by the presiding officers must issue as provided by law.

The 1971 organization of the 77th General Assembly shall continue as established in January, 1971, until the 78th General Assembly is convened in January, 1973. 1970 Ill. Const., Art. IV, Sec. 6(b); Committee on Legislative Article Majority Report, p. 74, Sixth Illinois Constitutional Convention (1970).

The 77th General Assembly may on June 30, 1971 adjourn to a time certain in 1971 or 1972. It must convene on the second Wednesday of January, 1972. This Assembly shall function as a continuous body until the second Wednesday of January, 1973.

Very truly yours,



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

cc: The Honorable Richard B. Ogilvie
Governor
Honorable Paul Simon
Lieutenant Governor
Honorable Clyde L. Choate
Minority Leader
Honorable Terrel E. Clarke
Assistant Minority Leader