

I am of the opinion that the foregoing is a fair and truthful statement of the proposed constitutional amendment and accordingly submit for uses provided by law, the following certification:

"Without passing upon the advisability of the adoption of the proposed amendment to the Constitution of Ohio and without passing upon the legality of same, but pursuant to the duties imposed upon me under the provisions of Section 4785-175, General Code, I hereby certify that the foregoing summary is a fair and truthful statement of the proposed amendment to the Constitution of Ohio by the addition to Article XV of Section 9. JOHN W. BRICKER, Attorney General."

Respectfully,
 JOHN W. BRICKER,
Attorney General.

1899.

APPROVAL, NOTES OF WASHINGTON RURAL SCHOOL DISTRICT,
 TUSCARAWAS COUNTY, OHIO—\$1,188.00.

COLUMBUS, OHIO, November 22, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

1900.

APPROVAL, NOTES OF RUSH RURAL SCHOOL DISTRICT, TUSCARAWAS COUNTY, OHIO—\$1,210.00.

COLUMBUS, OHIO, November 22, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

1901.

POOR RELIEF—IN ADDITION TO BONDS AUTHORIZED TO BE ISSUED BY COUNTY UNDER SECTION 3 OF AM. S. B. NO. 4, 89TH GENERAL ASSEMBLY, AS AMENDED BY S. B. NO. 63 OF 90TH GENERAL ASSEMBLY, POOR RELIEF BONDS MAY BE ISSUED WHEN—AUTHORITY OF RELIEF COMMISSION TO REQUIRE COUNTY TO PROCEED UNDER SAID SECTION 3.

SYLLABUS:

1. *Whenever in the years 1932, 1933 or 1934 the State Relief Commission finds that any county has issued all the bonds which it could issue under the provisions of section 3 of Amended Senate Bill No. 4, passed by the first special session of the 89th General Assembly, as amended by Senate Bill No. 63 of the 90th General Assembly, and that all the funds derived therefrom have been expended for poor relief or definitely allocated for such expenditures in its budget, and that additional funds are necessary for poor relief prior to March 1, 1935, and the Tax Commis-*

sion finds that no other means exist to provide such funds except by the issue of bonds, the county commissioners of any county or the legislative body of any city may issue poor relief bonds within the limitations provided by law.

2. Where the Relief Commission has made such findings as to a county and while the matter is still pending before the Tax Commission it finds that by reason of the increased revenues which will accrue to the county poor relief excise fund such county has not, in fact, issued all the bonds which it could issue under the provisions of section 3 of Amended Senate Bill No. 4, passed by the first special session of the 89th General Assembly, as amended by Senate Bill No. 63 of the 90th General Assembly, the Relief Commission may vacate its findings and compel such county, if it desires to issue bonds, to proceed under said section 3 to the extent allowed by said section.

COLUMBUS, OHIO, November 22, 1933.

State Relief Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—I acknowledge receipt of your communication which reads as follows:

"In your opinion No. 1790, dated October 31, 1933, you hold that the additional bonds authorized to be issued by a county under the provisions of Section 3 of House Bill No. 7, might have been issued at any time subsequent to September 1, 1933.

The issue of bonds under section 7 of Senate Bill No. 4, as amended by House Bill No. 7, is conditioned upon a finding by the Relief Commission that a subdivision has 'issued all the bonds which it is authorized to issue under the provisions of section 3 of this act.'

Within the interval between September 1, 1933, and the rendering of the opinion above referred to, the Relief Commission has, in some cases, made findings to the effect that a county has issued all of the bonds that it is authorized to issue under the provisions of said section 3 of Senate Bill No. 4, as amended by Senate Bill No. 63; and such findings have been submitted to the Tax Commission for investigation and finding, as provided in that section. In some cases the finding of the Tax Commission had been made, and bonds had been issued prior to October 31st. In other cases, a finding by the Tax Commission had not been made prior to that date. In no case has the subdivision been notified by the Tax Commission that it is authorized to issue bonds under section 3 of Senate Bill No. 4, as supplemented by House Bill No. 7.

An opinion is requested: (1) As to the validity of the issue since September 1, 1933, of bonds by a subdivision under section 7 of Senate Bill No. 4, as amended by Senate Bill No. 63.

(2) As to whether, in cases still pending before the Tax Commission on October 31st, the Relief Commission may vacate its findings and stop further procedure."

Section 3 of Amended Senate Bill No. 4, passed at the first special session of the 89th General Assembly, provided for the issuance of poor relief bonds by the commissioners of any county, when found necessary by such commissioners in the year 1932, in anticipation of and not in excess of the amount of taxes estimated by the Tax Commission, which would probably be allocated to such county under the provisions of section 5 of said act. Section 7 of said act pro-

vided in substance that whenever in the year 1932 the State Relief Commission found that any county has issued all the bonds which it could issue under section 3 of this act, and that all funds derived therefrom have been expended for poor relief and that further funds were needed therefor prior to March 1, 1933, and the Tax Commission found that no other means existed to provide said funds except by bond issue, the county commissioners of any county or the legislative body of any city might issue bonds in an amount not exceeding one-tenth of one per cent of the general tax list and duplicate of such county or city and subject to the limitations as to indebtedness provided for in the Uniform Bond Act. Section 3 of said act was amended in Senate Bill No. 63 of the 90th General Assembly by providing that bonds may be issued under said section in the years, 1933 and 1934. Likewise, section 7 was amended by said Senate Bill No. 63 by extending the time in which bonds could be issued under said section up to and including the year 1934 when the Relief Commission finds that additional funds are necessary for poor relief prior to March 31, 1935. Other slight amendments were made in these sections but they are not pertinent to your inquiry.

Section 3 has not since been amended but said section 7 was amended by House Bill No. 7, passed at the first special session of the 90th General Assembly, and now reads as follows:

"Whenever in the years 1932, 1933 or 1934, the state relief commission finds that any county has issued all the bonds which it is authorized to issue under the provisions of section 3 of this act, and that all the funds derived therefrom have been expended for poor relief or definitely allocated for necessary poor relief expenditures in the budget approved under the provisions of section 9 of this act, and that additional funds are necessary for poor relief prior to March 1, 1935, and the tax commission finds that no other means exist to provide such funds except by the issue of bonds, the county commissioners of any county or the council or other legislative body of any city may provide by resolution for the issue of the bonds of such county or city in an amount not exceeding in the aggregate one-tenth of one per cent. of the general tax list and duplicate of such county or city. Indebtedness created hereunder by a city shall be subject to the provisions and limitations of section 2293-14 as modified by section 2293-18 of the General Code, and indebtedness created hereunder by a county shall be subject to the provisions and limitations of section 2293-16 as modified by section 2293-18 of the General Code. The maximum maturity of such bonds shall be on or before September 15, 1942. The issuance, sale, and characteristics of such bonds shall conform to the provisions of the uniform bond act governing the issuance, sale, and characteristics of bonds issued without vote of the people, except as in this act expressly otherwise provided.

For the purposes of this section 'poor relief' in the case of a county, shall mean the payment of mothers' pensions allowed, or to be allowed, by the juvenile court, under sections 1683-2 to 1683-9 inclusive, of the General Code; soldiers' relief as provided in sections 2930 to 2941, inclusive, of the General Code; the furnishing of temporary support and medical relief to non-residents, pursuant to sections 3476 and 3484-2 of the General Code; and the maintenance of a county home and the children's home, and the expense of placing children in private homes incurred, pursuant to sections 3095 and 3096 of the General Code; and

the furnishing of direct and work relief by the county commissioners under the provisions of section 9 of this act. In the case of a township, 'poor relief' shall mean the support and relief of the poor and the burial of the indigent by township trustees, as authorized and required by General Code sections 3476 to 3496, inclusive; in the case of municipal corporations, 'poor relief' shall mean the support and relief of the poor and for the payment of obligations incurred for the support and relief of the poor and the burial of the indigent, as provided by sections 3476 to 3496, inclusive, and 4093 and 4094 of the General Code, or the appropriate provisions of the municipal charter; in the case of any political subdivision, said term shall include work relief, direct relief and the maintenance of a hospital belonging to the political subdivision or the making of payments by the political subdivision to hospitals otherwise owned, for the care of the indigent, sick, or disabled of the political subdivision, as authorized by law."

The only change made by this amendment was the addition of the second paragraph. Where said section 7 provides for the finding by the State Relief Commission "that any county has issued all the bonds which it is authorized to issue under the provisions of section 3 of this act," it refers to section 3 of said Amended Senate Bill No. 4, as amended by said Senate Bill No. 63, and does not refer to section 3 of said House Bill No. 7. Consequently, whenever in the years 1932, 1933 or 1934 the State Relief Commission has found that any county has issued all the bonds it could issue under the provisions of section 3 of said Amended Senate Bill No. 4, as amended by said Senate Bill No. 63, and that all the funds derived therefrom have been expended for poor relief or definitely allocated for necessary poor relief expenditures in the budget approved under the provisions of section 9 of said act, and that additional funds are necessary for poor relief prior to March 1, 1935, and the tax commission finds that no other means exists to provide such funds except by bond issue, these findings give the right to the county commissioners of any county or the legislative body of any city to issue poor relief bonds within the limitations provided by law, and it is immaterial whether said findings were made before or after September 1, 1933. Of course, since section 7 of said Amended Senate Bill No. 4, as amended by said Senate Bill No. 63, was repealed on September 1, said bonds would now be issued by virtue of said section 7, as amended by House Bill No. 7, passed by the first special session of the 90th General Assembly.

Section 3 of said House Bill No. 7 reads as follows:

"Nothing in section 3 of the act entitled 'An act to authorize the issue of bonds by counties and cities and the expenditure of public money for the relief of the poor and unemployed, and the investment of public funds in such bonds, to levy an excise tax on certain public utilities, and to declare an emergency', passed March 31, 1932, and approved April 5, 1932, known as Amended Senate Bill No. 4, as amended by an act entitled 'An act to amend sections 3, 7, 8 and 9 of Amended Senate Bill No. 4, enacted at the special session of the 89th General Assembly, approved April 5, 1932', passed February 14, 1933, and approved February 28, 1933, shall be so construed or applied as to prevent the tax commission of Ohio from revising the estimate and computation therein provided for as to any county, so as to take account of the increased revenues accruing to the county poor relief excise

fund under this act or under any other act whereby increased revenues shall so accrue; and notwithstanding that the commissioners of a county may have heretofore borrowed, pursuant to said section, in full the total amount heretofore calculated by said the tax commission of Ohio, said commissioners are hereby authorized to proceed, within the period limited in said section, and in the manner authorized and subject to the limitations imposed thereby, and by all other provisions of the act hereinbefore first mentioned, to borrow money to provide funds for poor relief within the county in an additional amount approved by the state relief commission and the tax commission of Ohio, as therein provided, and to disburse the 'emergency relief fund' thereby created, in the manner provided and subject to the limitations imposed by said act. The amendments of sections 1 and 2 of the act hereinbefore first mentioned, made by this act, shall not affect the expenditure of the proceeds of bonds heretofore issued under said act."

Consequently, where the Relief Commission has found that a county has issued all of the bonds which it could issue under section 3 of said Amended Senate Bill No. 4, as amended by said Senate Bill No. 63, and that all the funds derived therefrom have been expended for poor relief or definitely allocated therefor, and that additional funds are necessary for poor relief prior to March 1, 1935, and while such matter is still pending before the Tax Commission, the Relief Commission finds that by virtue of increased revenues which will accrue to such county or to the county in which such city is situated so that such county has not, in fact, issued all the bonds which it could issue under said section 3, the Relief Commission may vacate its findings and compel such county to proceed under section 3 of said Amended Senate Bill No. 4, as amended by said Senate Bill No. 63.

Therefore, it is my opinion that:

1. Whenever in the years 1932, 1933 or 1934 the State Relief Commission finds that any county has issued all the bonds which it could issue under the provisions of section 3 of Amended Senate Bill No. 4, passed by the first special session of the 89th General Assembly, as amended by Senate Bill No. 63 of the 90th General Assembly, and that all the funds derived therefrom have been expended for poor relief or definitely allocated for such expenditures in its budget, and that additional funds are necessary for poor relief prior to March 1, 1935, and the Tax Commission finds that no other means exist to provide such funds except by the issue of bonds, the county commissioners of any county or the legislative body of any city may issue poor relief bonds within the limitations provided by law.

2. Where the Relief Commission has made such findings as to a county and while the matter is still pending before the Tax Commission it finds that by reason of the increased revenues which will accrue to the county poor relief excise fund such county has not, in fact, issued all the bonds which it could issue under the provisions of section 3 of Amended Senate Bill No. 4, passed by the first special session of the 89th General Assembly, as amended by Senate Bill No. 63 of the 90th General Assembly, the Relief Commission may vacate its findings and compel such county, if it desires to issue bonds, to proceed under said section 3 to the extent allowed by said section.

Respectfully,

JOHN W. BRICKER,

Attorney General.