

R. E. Lee Marshall, Esq., City Solicitor (cont'd)

Treasury moneys that are brought in by the law of which it is a part, nevertheless the language of the budget amendment is broad enough to cover these cases because the section in question appropriates money out of the Treasury. He further states that the purpose of the budget amendment seems to be to prevent the appropriation of money except through the biennial budget law. He states that although it may be argued that the real object of the budget amendment is to prevent the spending of the general funds of the State by continuing appropriations, and although it may be argued that a law such as the one in question, which provides simply for the disposition of certain specific funds, is not made void, nevertheless the language of the budget amendment is sweeping and broad and it may be said with equal force that its real purpose is to compel the General Assembly each two years to take thorough stock of all appropriations from the Treasury. The decision of the Attorney General to the effect that the Constitutional Amendment supersedes the appropriation provisions of Section 254 of Article 56 of the Code was followed in 7 Op. Atty. Gen. 192, 7 Op. Atty. Gen. 198 and 12 Op. Atty. Gen. 121.

It is my opinion that the conclusion of the Attorney General is erroneous and that the Constitutional Amendment does not render void any part of Section 254 of Article 56 of the Code.

The Act of 1916, Chapter 126 (effective October 1, 1916), repeals certain continuing appropriations theretofore made. However, the Act specifically states that it is not to apply to revenues or funds which are raised by licenses, fees, taxation or otherwise, and which after being paid over, according to law, to the Treasurer, are required by law to be by him paid over, in whole or in part, to any county or city or to any department, commission, board or officer of any such county or city of the State. It must, of course, be admitted that this Act was passed before the Constitutional Amendment was ratified. However, it was passed at the same session of the Legislature at which the amendment to the Constitution was passed. It can, therefore, be argued that this Act, which is now known as Section 9 of Article 88A of the Code, throws considerable light upon the intention of the Legislature with reference to the scope of the Constitutional Amendment. It is obvious from a reading of Article 88A, Section 9, that the Legislature was desirous of prohibiting the continued appropriation of its general funds for certain enumerated purposes, and that the Legislature was not desirous of prohibiting the continued dispositions of special funds. It can be plausibly argued that similarly the real object of the budget amendment was to