

business, and there is no intrastate business, no tax may be computed or required to be paid, and therefore the state has not the right to charge the minimum amount where the report shows no intrastate earnings.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

207.

SUPPLEMENTAL PETITIONS—WHEN HOUSE OF REPRESENTATIVES DEFEATS INITIATED BILL, IN ORDER TO HOLD A VALID ELECTION THEREON, SUPPLEMENTAL PETITIONS MUST BE FILED WITHIN 90 DAYS THEREAFTER.

*SYLLABUS:*

*Under the provisions of Article II, Section 1b, of the Ohio Constitution, where an initiated bill is defeated in the House of Representatives on March 15th, in order to hold a valid election thereon, it is necessary that the supplemental petitions must be filed within ninety days thereafter.*

COLUMBUS, OHIO, March 19, 1927. °

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter of the 16th instant requesting my opinion as follows:

“Initiated House Bill No. 122, ‘Chiropractic Bill’ was defeated, as shown by the Journal of the House March the 15th. We are requested by the chiropractors of Ohio through Dr. C. E. Schilling, Secretary, to advise them of the date within which the supplemental petitions must be filed.

We will very much appreciate an opinion from your department thereon.”

The pertinent provisions of the Ohio Constitution involved in your inquiry are as follows:

Article II, Sec. 1.

“The legislative power of the state shall be vested in a general assembly \* \* \* but the people reserve to themselves the power to propose to the general assembly laws \* \* \* and to adopt or reject the same at the polls. \* \* \* They also reserve the power to adopt or reject any law, \* \* \* passed by the general assembly except \* \* \*.

Sec. 1a. The first aforesated power reserved by the people is designated the initiative, \* \* \*.

Sec. 1b. When at any time, not less than ten days prior to the commencement of any session of the general assembly, there shall have been filed with the secretary of state a petition signed by three per centum of the electors and verified as herein provided, proposing a law, the full text of which shall have been set forth in such petition, the secretary of state shall transmit the same to the general assembly as soon as it convenes. If said proposed law shall be passed by the general assembly, either as petitioned for or in an

amended form, it shall be subject to the referendum. *If it shall not be passed*, or if it shall be passed in an amended form, or if no action shall be taken thereon within four months from the time it is received by the general assembly, it shall be submitted by the secretary of state to the electors for their approval or rejection at the next regular or general election, if such submission shall be demanded by supplementary petition verified as herein provided and signed by not less than three per centum of the electors in addition to those signing the original petition, which supplementary petition must be signed and filed with the secretary of state within ninety days after the proposed law shall have *been rejected by the general assembly* or after the expiration of such term of four months, if no action has been taken thereon, or after the law as passed by the general assembly shall have been filed by the governor in the office of the secretary of state. The proposed law shall be submitted in the form demanded by such supplementary petition, which form shall be either as first petitioned for or with any amendment or amendments which may have been incorporated therein by either branch or by both branches of the general assembly."

Your attention is directed to the case of George T. Spar, Plaintiff vs. Thad H. Brown, Secretary of State, 19 Ohio Appellate Rep. 107. In its decision rendered on the first day of August, 1925, the Court of Appeals, Franklin County, Ohio, had under consideration the question involved in this inquiry. It used the following language:

"\* \* \* it may be observed that the ninety day provision is a Constitutional limitation binding alike upon the parties interested in the Bill and the Secretary of State. The ninety day limitation is a jurisdictional provision, and if the proponents of the Bill did not comply with this provision jurisdiction is lost, and no action by the secretary of state can confer jurisdiction as against the limitation expressly provided for in the Constitution. It is undoubtedly true that referendum provisions shall be liberally construed by the courts, and in matters wherein there is no express limitation, the action of the secretary of state would not be questioned by the courts, unless it should be found that there was an abuse of discretion. If it should clearly appear that the supplementary petition was not filed within ninety days after the rejection of the Bill by the House, the courts will review the action by the secretary of state and enjoin proceedings under the referendum. \* \* \*"

Your letter states that House Bill No. 122, was defeated on March 15, 1927. You are advised that the supplemental petitions must be filed within ninety days from March 15, 1927, the date of the rejection of the bill in order to hold a valid election thereon, viz., on or before June 13, 1927.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*