

a system is not determined by a per centum of the cost of the plan. The contribution by the employes to the retirement fund as fixed by Section 7889, supra, is "not less than four per centum per annum" of their salaries. In the absence of any information showing the cost of the retirement system provided by the library board referred to in your letter, I am not in position to determine the per centum of the cost contributed by the employes included in the retirement. However, in my opinion, such information is not necessary for a proper determination of the question presented in your letter. Suffice it to say that the General Assembly authorized the governing board of a public library to pay a certain portion of the cost of a retirement system. Applying the principle of law appearing in 37 O. Jur., supra, it is my opinion that the library board would be authorized to pay an amount over and above the amount contributed by employes included in a system of retirement, even though the amount paid by the library board exceeds fifty per centum of the cost of the plan.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1501.

DISAPPROVAL — PETITION CONTAINING PROPOSED
AMENDMENT TO ARTICLE I, SECTION 16, OHIO CON-
STITUTION.

COLUMBUS, OHIO, November 19, 1937.

Mr. Edward Lamb, 1014 Edison Building, Toledo, Ohio.

DEAR SIR: You have submitted for my examination a written petition signed by one hundred qualified electors of this state containing an amendment to Article I, Section 16 of the Constitution of the State of Ohio and the synopsis thereof, under Section 4785-175, General Code.

The amendment to the Constitution of Ohio set forth in the petition reads as follows:

"The courts shall be open, and every person for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay; but no court, nor judge, nor judges thereof, now in existence or hereafter created, established, ap-

pointed, elected, or in existence by any manner or means, shall have jurisdiction, to issue any restraining order or temporary or permanent injunction in any case between one or more employers or associations of employers and one or more employees or associations of employees, or between one or more employees or associations of employees and one or more employees or associations of employees, or between one or more employers or associations of employers and one or more employers or associations of employers, or between employer or employee or associations or groups thereof and employer or employee or association, or groups thereof or associations, organizations or affiliates of employees whether or not engaged in the same industry, craft, or occupation or directly or indirectly interested therein, or in any case involving or growing out of an industrial, or agricultural dispute concerning or involving terms or conditions of employment, or the association or representation of persons indicating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee. Suits may be brought against the state, in such courts and in such a manner as may be provided by law."

The synopsis of the aforementioned constitutional amendment reads as follows:

"The purpose of the proposed amendment is to define the jurisdiction of the Ohio courts. Heretofore it has been within the discretion of the court itself whether or not it would exercise equitable jurisdiction in disputes involving employers, employees, or groups or associations thereof. Whether or not the court has taken jurisdiction wisely or unwisely is a question of policy, and it is to establish this policy of the State of Ohio that this amendment is submitted.

The amendment provides that the court shall have no equitable jurisdiction to restrain or enjoin, either by permanent or temporary injunction, employers, employees, or groups or associations thereof, from engaging in labor disputes. Such procedure will permit, without interference, industrial or agricultural disputes to be settled amicably.

The amendment proposes to equalize the relationship of employers and employees by preserving for the employer his right to a remedy at law and preserving for the employee his

right to bargain collectively without interference of the courts of equity.

The amendment extends and reiterates the guarantees of Article II, section 16 of the Bill of Rights.”

It is quite evident upon a reading of the synopsis that certain arguments are advanced in favor of the adoption of the constitutional amendment. Under the provisions of Section 4785-175, General Code, the duty imposed upon the Attorney General is to certify the summary if he finds same to be a fair and truthful statement of the constitutional amendment to be referred to the people of this state. This section does not contemplate the use of any arguments in the summary either for or against the constitutional amendment to be referred.

Article II, Section 1g of the Constitution of Ohio orders the Secretary of State to print and disseminate all arguments and explanations for and against any proposed constitutional amendment. This section was held to be self-executing in the case of *State vs. Hildebrant*, 93 O. S. 1. Under Section 4785-180a, General Code, the committee named in an initiative petition may prepare the argument in favor of a proposed constitutional amendment. Such argument must be filed with the Secretary of State who then would be required to follow the procedure outlined in Article II, Section 1g of the Constitution.

In view of the above, it is apparent that an argument in favor of a constitutional amendment has no place in the summary of such amendment. I am therefore of the opinion that the summary or synopsis submitted with the proposed amendment to Article I, Section 16 of the Constitution of Ohio is not a fair and truthful statement of such amendment contemplated under the provisions of Section 4785-175, General Code, and by reason thereof I am returning herewith the petition without my certification.

Respectfully,

HERBERT S. DUFFY,
Attorney General.