

"The police power of a state extends to the regulation of the banking business and even to its prohibition, except upon such conditions as the state may prescribe."

The regulation here in question is obviously a reasonable one designed to fix definitely the responsibility of those engaged in the business.

Answering your question specifically, therefore, I am of the opinion that unincorporated banks, transacting and carrying on business as a partnership, are required by the provisions of Section 710-77 to file with the Superintendent of Banks a statement which, among other things, includes a copy of the articles of copartnership or agreement under which the business of the bank is being conducted, executed and acknowledged by all of the parties interested therein.

Respectfully,
EDWARD C. TURNER,
Attorney General.

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STATE LIBRARY NOT ABOLISHED BY GOVERNOR'S VETO OF APPROPRIATION ITEMS OR BY RECOMMENDATION OF HIS VETO MESSAGE.

SYLLABUS:

State library not abolished by Governor's veto of appropriation items or by recommendations of his veto message.

COLUMBUS, OHIO, June 9, 1927.

HON. HERBERT S. HIRSHBERG, *State Librarian, Columbus, Ohio.*

DEAR SIR:—I beg to acknowledge receipt of your request for opinion reading:

"The Governor's veto of the entire library appropriation for the eighteen months beginning July 1, 1927, forces the closing of the library on June 30th. I desire your advice as to the proper procedure to be followed in closing the department and the proper disposition of the books and equipment.

The question at issue seems to be as to whether the Governor's veto and recommendations in the veto message that the state library should be abolished constitutes abolition of the department in the face of statutory enactment providing for its function. I desire to know whether in your opinion the failure of the enactment of the appropriation in itself means the permanent abandonment of the department or whether I should act upon the assumption that the means of support of the State Library are merely temporarily lacking.

My attention has been called to the General Code, Section 196-12, which provides that the state purchasing agent shall take possession of the

property of any abolished or discontinued department. The same section provides for an inventory of such property by the state purchasing agent. In order to properly acquit myself in the rather unusual circumstances I desire your legal opinion at the earliest possible moment."

Section 16 of Article II of the Constitution of Ohio reads in part as follows:

"The Governor may disapprove any item or items in any bill making an appropriation of money and the item or items so disapproved shall be void, unless repassed in the manner herein prescribed for the repassage of a bill."

Section 16 further provides that if the Governor does not approve a bill, he shall return it with his objections in writing to the House in which it originated, which shall enter the objections at large upon its journal.

The Governor in his veto message assumed that he was abolishing the state library. This is not true. It is true that he has seriously crippled it by denying the money necessary for its continued operation during the next eighteen months.

Section 18 of the Bill of Rights of the Constitution of Ohio provides:

"No power of suspending laws shall ever be exercised except by the general assembly."

The act creating the state library is to be found in chapter 5 of the General Code of Ohio, under the title of "State Board of Library Commissioners," which originally included Section 788 to 798-9, both inclusive.

At the time of the enactment of the Administrative Code (109 O. L. 105-132), Sections 788, 789, 790 and 791 were repealed and in lieu thereof Sections 154-51, 154-52, 154-53 and 154-54 were enacted. Sections 798-2, 798-4 and 798-8 were also repealed. Section 798 was repealed in 106 O. L. 508-517.

Sections 154-51 to 154-54 provide as follows:

"Sec. 154-51. A state library board is hereby created in the department of education, to be composed of the director of education, as chairman, and four other members. The members other than the director of education shall be appointed by the governor. The first appointment under this section shall be as follows: One member for a term of two years, one member for a term of four years, one member for a term of six years and one member for a term of eight years. Thereafter one member shall be appointed each two years for a term of eight years. The members other than the director of education shall receive no compensation, but shall be paid their actual and necessary expenses incurred in the performance of their duties."

"Sec. 154-52. The state library board shall appoint and may remove a state librarian, who shall, under the direction and supervision of the board, be the head of the library service of the state, with power to appoint and remove all assistants and heads of departments in the state library service."

"Sec. 154-53. The state library board shall make such rules for the government of the state library, the use and location of the books and other property therein or the transfer thereof as it deems necessary or advantageous to the library service of the state. It shall organize the

library service of the state into departments and determine the number of assistants and other employes therein."

"Sec. 154-54. The state librarian shall be secretary of the state library board. Under the direction and supervision of the state library board and subject to the rules and regulations established by it, the state librarian shall, through such departments as may be created by the board, exercise all powers and perform all duties vested by law in the state board of library commissioners, the librarian heretofore appointed by the state board of library commissioners, the library organizer heretofore appointed by the state board of library commissioners and the legislative reference department and the director thereof."

Section 792 of the General Code, provides as follows:

"The librarian shall have charge of the state library and shall give personal attendance therein and attention thereto. He shall enforce the rules and regulations established by the general assembly and the board of library commissioners for its government."

All of the foregoing laws are still in full force and effect.

You are therefore advised that neither the Governor's veto nor the recommendations in the veto message to the effect that the state library should be abolished constitute the abolition of said library.

You are further advised that the failure of the enactment of the appropriation in itself does not mean the permanent abandonment of the department and you should act upon the assumption that the means of support of the state library are merely temporarily lacking.

Salary is not necessarily an incident of office. In other words, abolishing the salary does not abolish the office. The office remains even if the officer resigns.

So long as you remain librarian it will be your duty to remain in charge of the state library, to give your personal attendance and attention thereto and to enforce the rules and regulations established by law and by the board of library commissioners for the government of the library.

Under Section 154-53, above quoted, it will be the duty of the state library board to make such special rules for the government of the state library, the use and location of the books and other property therein or the transfer thereof as may be necessary to meet the situation brought about by the Governor's veto of the legislative appropriation for your department.

The foregoing conclusions render unnecessary any discussion of Section 196-12.

Respectfully,
EDWARD C. TURNER,
Attorney General.

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STATE LIBRARY BOARD—NO AUTHORITY IN LAW TO ACCEPT POPULAR SUBSCRIPTIONS FOR SALARIES AND EXPENSES OF STATE LIBRARY—DIRECTOR OF HIGHWAYS AND PUBLIC WORKS MUST PROVIDE SUITABLE QUARTERS FOR LIBRARY.

SYLLABUS:

No authority in law for acceptance and administration of popular subscription by state library board for salaries and expenses of state library.