

RE: Bonds of Toledo City School Dist., Lucas  
County, Ohio, \$76,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above school district dated July 1, 1937. The transcript relative to this issue was approved by this office in an opinion rendered to your commission under date of July 13, 1937, being Opinion No. 869.

It is accordingly my opinion that these bonds constitute a valid and legal obligation of said school district.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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978.

COMMITTEE AUTHORIZED BY SENATE RESOLUTION No. 81,  
HAS NO AUTHORITY TO INVESTIGATE ACTIVITIES OF  
CIVIL SERVICE COMMISSION.

*SYLLABUS:*

*The committee authorized by Senate Resolution No. 81, passed by the 92nd General Assembly in special session July 12, 1937, has no power or authority at this time to investigate the Civil Service Commission.*

COLUMBUS, OHIO, August 5, 1937.

*Civil Service Commission of Ohio, Columbus, Ohio.*

GENTLEMEN: Your letter of recent date is as follows:

“During the year 1935 a sub-committee of outstanding personnel officials of various large and important interests representing the Ohio Government Survey Committee, commonly known as the Sherrill Committee, made a complete survey of this Commission. During the past thirty days the Auditor of State through his duly authorized examiners, without legal authority, made an investigation of this Commission.

Although our Commission was fully aware that the Auditor was beyond his legal power, no effort was made in any way to interfere with his investigation, for the reason that the Commission had full knowledge that the work of this department

and the administration of the Civil Service Laws of Ohio were and are being enforced insofar as the limited funds allowed by the General Assembly will permit.

Although every cooperation was accorded by this department to the auditor and his examiners, he voluntarily and without any order from this Commission terminated the investigation.

The Ohio Survey Committee in its report made some very complimentary suggestions concerning the work of this Commission.

Although the examiners employed by the Auditor of State have made no report, they verbally stated to members of the Commission and to various employes within the department that the records of this Commission were found in as high class condition as any department they have ever examined.

During the above survey and investigation this Commission found it necessary to be temporarily deprived of its records, as well as finding it necessary to assign assistance from our own employes who are already overburdened with the vast amount of work in this office. Naturally the work of the Commission and its employes has been seriously delayed at times, as well as the interference with the regular established rules and order of duty.

It now comes before us that another investigation is being ordered by the Senate. This Commission is becoming disturbed as to whether or not this department and its employes are to spend all the efforts of the department to answering and assisting investigators, or to be placed in a position whereby more time can be devoted to conducting examinations, surveys and other work duly authorized under the law and rightfully anticipated by the citizens of Ohio.

Inasmuch as our records have always been open to the public and we court a reasonable inspection under proper regulations, we are of the opinion that a further investigation would result in no good purpose.

During the recent special session the Morris-Seidner—S. R. No. 81—was passed by the Senate relative to investigation of various state departments, including the Civil Service Commission. It was followed by a resolution purporting to authorize a certain committee therein named to make the investigation.

We respectfully request your opinion as to whether under the Constitution, laws and call for this special session can a Senate Committee be legally authorized to investigate this

department in the manner as outlined in S. R. No. 81.

The Commission has no thought or desire to stop any legal or duly authorized investigation, but because of the importance and need of the undivided time of the Commission and its employes and records, feels that in the future any and all investigations must necessarily be limited only to those duly authorized under the law."

Article III, Section 8 of the Constitution provides as follows:

"The governor on extraordinary occasions may convene the general assembly by proclamation and shall state in the proclamation the purpose for which such special session is called, and no other business shall be transacted at such special session except that named in the proclamation, or in a subsequent public proclamation or message to the general assembly issued by the governor during said special session, but the general assembly may provide for the expenses of the session and other matters incidental thereto."

Acting under authority of the foregoing section, the Governor on June 15 called the General Assembly into special session by proclamation for the stated purpose "to make appropriations for the operation of the state government for the current biennium, and for such other purposes as I may, by special message, bring before the special session." I am informed that no other special messages have been sent to this special session of the General Assembly relating in any way to your Commission.

Under these circumstances, it is apparent that in so far as legislative activities of the first special session of the present General Assembly are concerned, that assembly or either house thereof has been only concerned with the matter of making appropriations for the operation of your Commission for the current biennium,—this in view of the provisions of Article III, Section 8 of the Constitution, *supra*, that "no other business shall be transacted at such special session except that named in the proclamation".

This office has had occasion to construe this last mentioned constitutional provision. I direct your attention to an opinion of my predecessor, being Opinion No. 5091, rendered January 13, 1936, the syllabus of which is as follows:

"The General Assembly in special session has no authority to pass a joint resolution submitting a constitutional amendment in accordance with the provisions of Article XVI, Section 1 of the Constitution, unless such action is authorized by the procla-

mation of the Governor calling the General Assembly in special session or in a subsequent public proclamation or message to the General Assembly issued by the Governor during such special session, as provided by Article III, Section 8 of the Constitution.”

The foregoing opinion, in which I concur, cited and discussed the decision of the Supreme Court in the case of *State, ex rel. vs. Braden*, 125 O.S. 307, holding that this provision of the Constitution is mandatory, that the legislature is not empowered to legislate upon any subject except such as may be indicated in the Governor's proclamation or which is incidental to the purpose stated in the proclamation, and that the Governor can, as he has in the instant case, limit the business which the legislature may consider.

It should be observed at this point in passing that by virtue of Article II, Section 8 of the Constitution, adopted in 1912, the rule laid down in *State vs. Gilbert*, 75 O.S. 1, decided in the year 1906, to the effect that a single house of the General Assembly may not appoint a committee to obtain information affecting legislative acts under consideration or contemplation, is no longer declarative of the law of Ohio since a single house of the General Assembly now has such power. See Opinions of the Attorney General for 1921, Vol. I, page 1524.

Your question accordingly resolves itself into one of whether or not the committee authorized by Senate Resolution No. 81, referred to in your letter, has any power to act at this time. Such Senate Resolution No. 81 was passed July 12 of this year and appears in the Senate Journal for that day on pages 9, 10 and 11. It provides in so far as pertinent as follows:

“Relative to investigation of the civil service, highway and liquor control departments as affects state finance.

WHEREAS, There has been criticism of the method of financing and operating of the department of liquor control of Ohio, of the department of highways of Ohio, the state civil service commission of Ohio and of the civil service in the State of Ohio, and,

WHEREAS, There has been public discussion as to the method of administering the funds allocated to these respective departments and employed in the administration of the civil service laws of Ohio, and,

WHEREAS, It is necessary and advisable that the Senate and the General Assembly of Ohio, have information regarding the conditions, allocation of funds, administration, expenditures,

needs of, and of the methods used and employed in connection with said respective departments and in connection with the civil service laws of the State of Ohio, in order to study, recommend and make corrections, improvements and amendments to the existing laws, looking toward more economical and more efficient methods, operation, administration and practices in, and covering said respective departments and said commission, the administration thereof, the allocation of funds thereto, the expenditures thereby and the needs of said departments and under said civil service laws; now therefore, be it

*Resolved*, By the Senate of the 92nd General Assembly of the State of Ohio, in extraordinary session now assembled, that inquiry, investigation, study and recommendations be made of, and in reference to the department of liquor control of Ohio, the department of highways of Ohio, the state civil service commission laws of Ohio, concerning the administration of, the allocations of funds to, the expenditure of funds under, the methods employed in connection with, the needs of, the more economical administration of, and the more efficient operation of and under said departments and commission and laws; and

That, for the purpose of ascertaining all facts connected with said subjects, administration, funds, expenditures, needs, allocations, practices, economies and improved efficiency of said departments, commission and laws of the State of Ohio, and for the purpose of then recommending revisions, amendments or changes in the laws of the State of Ohio, as will cause savings in connection therewith and as will cause the better functioning of said departments and divisions, the committee hereinafter referred to, shall have and is hereby vested with the full power, right and authority to investigate, study, and inspect any and all records, practices, methods, financial statements, contracts, data, books, material, supervision, rules, practices, and regulations in said departments and commission, and shall have the further right, power and authority to investigate, inspect and study any and all influences, practices and conduct of said departments, commission and laws, as well as that of any and all other departments, commissions and any and all political subdivisions of the State of Ohio, and, also, corporations, firms and persons outside of said departments, and commission, concerning matters, records, data and information in any way relating to or in any manner connected with, or incident to the purpose and the subject matter of this resolution.

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It is my judgment that the committee authorized by the foregoing resolution had power to investigate the financial needs of your Commission for the current biennium and had power to ascertain facts necessary to a proper determination of the amount which should be appropriation therefor, but that except as to such investigation and the ascertainment of such facts, such committee was powerless to conduct any other investigation and in so far as the foregoing resolution relates to other matters, such as conducting investigations for the purpose of determining what revisions, amendments or changes in the laws may be necessary to effect savings of public funds, such resolution was to that extent wholly unauthorized and completely void. As stated by the Supreme Court in the Braden case, *supra*, had the General Assembly "not adhered to the limitation placed upon it by the proclamation, its action in that respect would have been void".

Whatever may be said as to Resolution No. 81, *supra*, having been of some force and effect in so far as it related to the ascertainment of the needs of your Commission in the consideration of the general appropriation act, the general appropriation act has been passed and that matter is not at least *functus officio*. I am advised unofficially that this session of the General Assembly has been prorogued by the Governor until the end of the biennium, December 31, 1938, under authority of Article III, Section 9 of the Constitution.

In specific answer to your question, it is my opinion that the committee authorized by Senate Resolution No. 81 passed by the 92nd General Assembly in special session July 12, 1937, has no power or authority at this time to investigate your Commission.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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979.

APPROVAL—BONDS OF CITY OF CINCINNATI, HAMILTON  
COUNTY, OHIO, \$20,000.00.

COLUMBUS, OHIO, August 5, 1937.

*The Industrial Commission of Ohio, Columbus, Ohio.*

GENTLEMEN :

RE: Bonds of City of Cincinnati, Hamilton County,  
Ohio, \$20,000.00.