

the exercise of such powers by national banks shall not be deemed to be in contravention of State or local law within the meaning of this Act.

National banks exercising any or all of the powers enumerated in this subsection shall segregate all assets held in any fiduciary capacity from the general assets of the bank and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this subsection. *Such books and records shall be open to inspection by the State authorities to the same extent as the books and records of corporations organized under State law which exercise fiduciary powers, but nothing in this Act shall be construed as authorizing the State authorities to examine the books, records, and assets of the national bank which are not held in trust under authority of this subsection."*

It is clear that under this section the trust records of a national bank may be inspected by state authorities in the same manner and to the same extent as those of state banks, which exercise fiduciary powers. The language of Section 11 (k), Federal Reserve Act, appears sufficiently broad to empower the superintendent of banks to require the reports authorized by Section 710-32a, General Code.

A foreign trust company which comes into Ohio to do business thereby consents to be governed by our laws applicable to such type of business. *New York Life Ins. Co. vs. Cravens*, 178 U. S., 389; *Orient Insurance Co. vs. Daggis*, 172 U. S., 557; *Hooper vs. California*, 155 U. S., 648.

There being no provisions of law making section 710-32a, General Code, inapplicable to national banks located in this state or to foreign trust companies doing business here, it is my opinion that such institutions must furnish the reports required by said section, since they are within the clear meaning of the language used.

Respectfully,

JOHN W. BRICKER,

Attorney General.

2857.

WORKMEN'S COMPENSATION—APPROPRIATION TO INDUSTRIAL COMMISSION FROM HIGHWAY DEPARTMENT—H. B. No. 699 DID NOT REPEAL H. B. No. 248.

SYLLABUS:

1. *House Bill No. 699, regular session of the 90th General Assembly, known as the General Appropriation Bill, did not repeal House Bill No. 248, enacted earlier in the same session, and making a partial appropriation for insurance on employes of the Department of Highways.*

2. *Where the Department of Highways has paid to the Industrial Commission of Ohio for workmen's compensation insurance the sum of \$75,000 from the*

highway maintenance and repair fund, appropriated to it by the General Assembly for such purpose, in accordance with House Bill No. 248, 90th General Assembly, regular session, but has only paid to such commission the additional sum of \$25,000 from the \$100,000 appropriated from the same fund to the said commission by House Bill No. 699, 90th General Assembly, regular session, for the year 1933, the said Industrial Commission is entitled to receive from the said Highway Department the balance of \$75,000 appropriated by said House Bill No. 699 for workmen's compensation insurance from the highway maintenance and repair fund for the year 1933

COLUMBUS, OHIO, June 25, 1934.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—Your communication of recent date reads as follows:

“May I request an opinion on the following:

On January 18, 1933, the Legislature passed Amended House Bill No. 21 which made partial appropriations for the biennium beginning January 1, 1933, and ending December 31, 1934. No provision was made in this bill for ‘Insurance of Employees of Department of Highways.’

Thereafter the Ninetieth General Assembly of Ohio passed the following Appropriation Act known as H. B. No. 248:

‘To make partial appropriations for the biennium beginning January 1, 1933, and ending December 31, 1934.

Be it enacted by the General Assembly of the State of Ohio:

Section 1. The sum set forth herein is hereby appropriated out of any moneys in the state treasury to the credit of the highway maintenance and repair fund:

WORKMEN'S COMPENSATION FOR STATE EMPLOYEES

Maintenance—

H Fixed Charges and Contributions—

H-7 Insurance

Insurance on employes of department of highways....\$75,000.00

Section 2. The provisions of sections 2 to 9, both inclusive, of House Bill No. 21, Ninetieth General Assembly, entitled ‘An act to make partial appropriations for the biennium beginning January 1, 1933, and ending December 31, 1934,’ insofar as they may be applicable, *shall apply to and govern the appropriations made herein with the same force and effect as if incorporated herein.*” (Italics ours.)

H. B. No. 248 apparently was intended to cover an item omitted from the original Temporary Appropriation Bill known as H. B. No. 21 through oversight.

On July 1, 1933, the General Appropriation Act, known as H. B. No. 699, was passed appropriating for Workmen's Compensation for the year 1933—\$175,000.00 with the proviso that \$75,000.00 thereof would be appropriated from the General Revenue Fund and that the remaining \$100,000.00 would come from the Highway Maintenance and Repair Fund. (page 177).

H. B. No. 699 reads in part as follows:
(Section 3)—

'From each amount named in Section 1 hereof in the columns designated "1933" and "Biennium" there shall be considered to be deducted the aggregate amount of all warrants drawn upon the state treasury and all encumbrances made under authority of H. B. No. 21 of the Ninetieth General Assembly, Section 1 of which is repealed by Section 11 hereof, for the purpose for which such amount is hereby appropriated, and the auditor of state and director of finance shall, immediately upon taking effect of such repeal, charge against the proper account credited under the authority of this act the aggregate sum of all such warrants in like manner as if such warrants had been drawn under authority of this act. * * *'

There is no doubt but what the General Appropriation Act, H. B. No. 699, repealed Amended H. B. No. 21 and included all the appropriations contained therein. The question is, would it also repeal H. B. No. 248 which by reference was made a part thereof? Had the \$75,000.00 appropriated by H. B. No. 248 been actually included in H. B. No. 21 there would be no question whatsoever.

This department has already paid to the Industrial Commission of Ohio the sum of \$75,000.00 carried in H. B. No. 248 and has also paid the balance of \$25,000.00, making the total \$100,000.00 to be paid from highway funds as required in H. B. No. 699. The remaining \$75,000.00, as required by H. B. No. 699, will be or has been paid from the General Revenue Fund.

The Industrial Commission of Ohio now contends that there still remains \$75,000.00 due to the State Insurance Fund from the Highway Fund, basing that contention upon the ground that the General Appropriation measure known as H. B. No. 699 did not repeal Section 1 of H. B. No. 248 when Section 2 of H. B. No. 248 stated that H. B. No. 248 insofar as applicable was to apply to Amended House Bill No. 21 which was repealed by Section 3 of H. B. No. 699.

The question I desire answered is as follows:

Is there still due the Industrial Commission from the Highway Fund the sum of \$75,000.00, or by the payment already made of \$100,000.00, as required by H. B. No. 699, has the Highway Department fulfilled its obligation for Industrial Insurance for the year 1933?"

Inasmuch as you have set out in detail in your communication the pertinent portions of Amended House Bill No. 21, House Bill No. 248 and House Bill No. 699, enacted by the 90th General Assembly, regular session, on January 19, April 5 and July 8, 1933, respectively, it would appear to be unnecessary to recopy them here.

At the outset, it may be stated that considering all the pertinent portions of the appropriation bills heretofore mentioned, I am unable to conclude with respect to the question raised in the middle of your communication that the legislature has repealed section 1 of House Bill No. 248.

House Bill No. 248 was not made a part of Amended House Bill No. 21 by reference. It would seem rather that some of the portions of Amended House

Bill No. 21 were incorporated by reference into House Bill No. 248. The language of section 2 of House Bill No. 248 merely provides that any of the applicable provisions of sections 2 to 9 of Amended House Bill No. 21, should govern the appropriation made in section 1 of House Bill No. 248. Section 1 of Amended House Bill No. 21 makes all the appropriations in such bill, and as indicated by you in your communication, appears to have omitted, by oversight or otherwise, the appropriation item of workmen's compensation insurance. Sections 2 to 9 of such House Bill No. 21 set out various detailed provisions to govern the appropriations made in section 1 of the bill. Section 1 of House Bill No. 248 appropriates an independent appropriation item, not included in section 1 of Amended House Bill No. 21, and section 2 of House Bill No. 248 adopts by reference all provisions of sections 2 to 9 of Amended House Bill No. 21, which can apply to the appropriation made by section 1 of said House Bill No. 248.

Section 11 of House Bill No. 699 reads as follows:

"Section 1 of the act passed and approved entitled 'an act to make partial appropriations for the biennium beginning January 1, 1933, and ending December 31, 1934, is hereby repealed, such repeal to be effective as to each appropriation thereby made immediately upon taking effect of any appropriation for the same purpose made in this act * * *."

The portion of section 3 of House Bill No. 699, quoted in your communication, together with the portion of section 11 of House Bill No. 699, above quoted, clearly shows that the legislature repealed only section 1 of Amended House Bill 21, making the appropriations in such act, and did not repeal sections 2 to 9 of said Amended House Bill No. 21, which sections make conditions and qualifications for encumbering and expending appropriations.

While it is arguable that the legislature did not intend that the \$75,000.00 appropriated by House Bill No. 248 from the maintenance and repair fund, plus the \$100,000 appropriated from the same fund by House Bill No. 699, should be expended for the state's workmen's compensation insurance for the year 1933, yet the intention of the legislature must be deduced from the language of the bills it passes, and as the language appearing in Amended House Bill No. 21, House Bill No. 248 and House Bill No. 699 seems to be clear and unambiguous, there is no authority for the courts or the Attorney General to construe such bills. See *Mansfield vs. Brooks*, 110 O. S. 566; *State ex rel. vs. Brown*, 121 O. S. 329; *Svetland vs. Miles*, 101 O. S. 201, and *Ohio S. & T. Co., vs. Schneider*, 25 App. 259. Moreover, if it were to be held that section 1 of House Bill No. 248 were repealed by House Bill No. 699, then clearly by analogy House Bill No. 93 of the 90th General Assembly, regular session, making partial appropriations to the Department of Highways of \$3,000,000 from the highway construction fund in section 1 would likewise be repealed by House Bill No. 699, as section 2 of said House Bill No. 93 states:

"The provisions of sections 2 to 9, both inclusive, of House Bill No. 21, Ninetieth General Assembly, entitled 'a bill to make partial appropriations for the biennium beginning January 1, 1933, and ending December 31, 1934,' insofar as they may be applicable, shall apply to and govern the appropriations made herein with the same force and effect as if incorporated herein."

just as section 2 of House Bill No. 248 reads. Surely it cannot be maintained that House Bill No. 699 repeals House Bill No. 93.

There is another strong argument for holding that it was not the intention of the legislature to repeal House Bill No. 248. A reference to the booklet "State of Ohio, Executive Budget, Biennium 1933-1934", at page 210 shows that the Director of Finance recommended to the 90th General Assembly that \$500,000 be appropriated by the General Assembly for workmen's compensation insurance for state employees for the biennium 1933-1934, and a reference to page 268 of the booklet "Appropriations, 1931-1932", shows that the General Assembly appropriated \$500,000 for workmen's compensation for state employees for the biennium 1931-1932. If it were to be held that House Bill No. 699 repealed House Bill No. 248, then only \$425,000 would be appropriated by the legislature for the 1933-1934 biennium, while if it is held that House Bill No. 248 is not repealed by House Bill No. 699, then the legislature will have appropriated \$500,000 for workmen's compensation insurance for state employees for the biennium 1933-1934, which is the same amount appropriated during the biennium 1931-1932, and the same amount recommended by the Director of Finance for the 1933-1934 biennium. Surely this background would seem to indicate strongly the intention of the legislature was not that House Bill No. 248 be repealed by House Bill No. 699.

In view of the foregoing, I am of the opinion, in specific answer to your question, based upon the data submitted in your communication, that there is still due the Industrial Commission from the Highway Maintenance and Repair Fund for the year 1933, the sum of \$75,000.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2858.

MOUND CITY STATE PARK—SUPERINTENDENT ENTITLED TO
SAME SCHOOL PRIVILEGES AS RESIDENTS OF SCHOOL DIS-
TRICT EMBRACING PARK.

SYLLABUS:

The Superintendent of the Mound City State Park located within the boundatrics of the Camp Sherman Military Reservation near Chillicothe, Ohio, is entitled to the same school privileges as are accorded by law to the residents, of the school district which embraces the territory within said park.

COLUMBUS, OHIO, June 25, 1934.

MR. HENRY C. SHETRONE, *Director, The Ohio State Archaeological and Historical Society, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion which reads as follows:

"At the request of the Board of Trustees of the Ohio State Archaeological and Historical Society, I take the liberty of inviting