

Thus, in answer to your questions, it is my opinion that the judge of the St. Joseph Probate Court may pay or provide for the payment of services presently rendered or to be rendered by the St. Joseph Mental Hygiene Clinic, but he has no authority to attempt to make any payments for any services rendered in prior years.

OFFICIAL OPINION NO. 15

February 8, 1952.

Mr. Harold F. Brigham, Director,
Indiana State Library,
140 North Senate Avenue,
Indianapolis, Indiana.

Dear Sir:

I have your request for an official opinion which reads as follows:

“Our Extension Division has an inquiry from a public library concerning contracts between the library and a township to which the library extends service.

“The library is now operating under the Acts of 1901, chapter 55. It gives service to a township under the Acts of 1911, chapter 132, and amendments thereof. (Burns' Annotated Indiana Statutes, 41-301 ff; Burns' 41-310, on township service.)

“The library expects to change its identity and become a Class I library under the Acts of 1947, chapter 321. In so doing, the library board will be newly appointed, according to Section 8 of the Act. (Burns' Annotated Indiana Statutes, Cumulative Pocket Supplement, 1949, 41-908.)

“The library in question asks: If we should enter into a written contract with the township before conversion, will this be binding after conversion to the Law of 1947?

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"We would appreciate the advice of your office on the question raised. We expect other libraries to be raising the same question during 1952."

As pointed out in Official Opinion No. 13 of January 30, 1952, and as stated in your letter, libraries on conversion in Class III to Class I become new and separate entities. The present organization has no authority to bind this new entity, which might or might not be created in the future. Although contract rights are generally inviolate.

It has been held frequently that the state has exclusive and complete control over its sub-divisions and may relinquish, or otherwise effect contractual rights running to a local municipality, by legislative action.

State ex rel. Jackson, Attorney General v. Middleton (1938), 215 Ind. 219, 19 N. E. 2d 470;

Bolivar Township, Board of Finance of Benton County v. Hawkins et al. (1934), 207 Ind. 107, 191 N. E. 158, 96 A. L. R. 271.

Since the effective date of the 1947 Library Act, same being Chapter 321 of the Acts of 1947, found in Burns' 41-901, *et seq.*, it has been apparent that it would be impossible for any Class III library to perform any obligation after January 1, 1953. A contract entered into in the light of this impending impossibility of performance would be unenforcible insofar as it was impossible to perform.

Thus, if a contract such as you mention were entered into it could, at the most, bind the Class III library until conversion and might possibly be construed so as to require the library not to convert until the last possible moment, but it could not bind the successor library. I see, however, no reason why it could not be entered into subject to ratification by the successor library district or why it could not be entered into for a period ending on effective conversion and a new contract negotiated with the new library district.

I sincerely hope I have answered all your questions adequately.