

Your fourth question is whether the reporter's office should furnish newly-created courts with complete sets of reports. Section 7 of Chapter 170, above cited, (49-1622 Burns' R. S. 1933, Pocket Supplement) provides:

“* * * Such volume so obtained, (referring to reports not published by the state and obtained by exchange) together with the volumes published by the state, necessary to make complete sets, or to complete incomplete sets, may be distributed free of charge to the several circuit, superior, criminal and probate courts * * *.” (Parenthesis ours.)

As pointed out above, the Legislature in this section was referring to the original printing and volumes obtained by exchange of volumes in the original printing. It does not include reprinted volumes. I am, therefore, of the opinion that in so far as volumes are available from original printings or exchanges, they may be furnished free of charge to the newly-created courts.

OFFICIAL OPINION NO. 23

March 27, 1945.

Hon. Milton Matter, Director
 Indiana Department of Conservation,
 State House,
 Indianapolis, Indiana.

Dear Sir:

This is in reply to your recent request for an opinion as to the status of the Indiana State Museum.

You ask to be advised as to the department of the state government that has jurisdiction over the museum and its future development.

It is unnecessary to go into the question as to how the state museum idea originated, or where the various specimens came from, or to whom they were originally given. Many specimens were collected by former state geologists, and some articles such as the J. H. Vajen heirs collection, were

presented to the state. (See report of Department of Conservation 1919 Year Book, page 380.)

It is evident from an examination of the various laws hereinafter referred to, that the entire collection of geological specimens, relics, etc., now constituting the State Museum and housed on the first floor of the Capitol, was originally in the legal custody and control of the state geologists and was thereafter transferred to your department.

In 1881 a "Department of Geology and Natural History" was established by the Legislature and one of the duties of the geologist of the department was to be the "curator of the geological cabinets, museum, apparatus and library." He was directed to "add specimens to the cabinet of minerals, organic remains and other objects of natural history peculiar to this state and other states and countries." The Geological Department so established was required to keep the State Museum open during the usual business hours of the other state offices, when the geologist was not engaged in field work. (Acts of 1881, ch. 55, p. 523, Secs. 1, 3 and 4.)

In 1889 the State Legislature established a "Department of Geology and Natural Resources." The department was comprised of four divisions. The first division was that of "Geology and Natural Resources." It was provided in the 1889 Act, as it was in the 1881 Statute, that the director of the department

"shall be curator of the geological cabinets, museum, apparatus and library, and shall, from time to time, as may be practical, add specimens to the cabinet of minerals, organic relics and other objects of natural history peculiar to this state and other states and countries."

That 1889 law superseded the 1881 Statute. (Acts 1889, ch. 33, Secs. 3 and 10; Burns' 1933, Sec. 46-201.)

In 1919 "The Department of Conservation" was created, and its powers and duties were vested in a commission of four members. (Acts of 1919, ch. 60, page 375; Burns' 1933, Secs. 60-701 to 60-741.) The commission was divided into departments as in the 1889 Act, and one of them was designated as the "Geology" division, and in Section 15 of the Act it is provided that the department shall have the rights, powers and

duties of "continuing the geological, scientific and topographical survey of the state and the work of discovering, developing and preserving its natural resources. * * * The Commission shall have charge of the state geological cabinet, museum, apparatus and library, and shall, from time to time, as may be practical, add specimens thereto." This 1919 Act repealed former inconsistent laws. Since 1919, in the various year books of the state, the report of the Department of Conservation shows that the department cared for and controlled the State Museum. In the report of W. N. Logan, State Geologist, in 1919, it is stated that the museum was moved from the third floor to the basement of the State House. It also states that new specimens were being added to the museum, and that the curator was making a catalog of the museum specimens, and the report suggested that some relics of the recent World War should be placed on exhibit because the visitors inquire about the war relics.

Also, your letter states that the care of the museum had heretofore been assigned to an assistant in the Division of Geology, and that his salary had been paid from the Conservation funds. I think it is clear therefore that the state laws placed the exclusive jurisdiction and right to control and further development of the State Museum in the Conservation Commission of the Department of Conservation. This was acquiesced in by all the other departments and commissions and the executive department of the state government.

By the provisions of Chapter 353 of the Acts of the 1945 Legislature, all the rights, powers and duties of the Department of Conservation, as set up in Chapter 60 of the Acts of 1919 and amendments thereto, were transferred to the "Indiana Department of Conservation" newly created by Chapter 353 of the Acts of 1945.

It is my opinion, therefore, that the Indiana Department of Conservation now has undoubted legal authority over the custody, management and development of the State Museum.

You call attention to the 1925 Act of the Legislature that provides in Chapter 58 for the establishment of the "Indiana Library and Historical Department." In Section 12 of the Act it is provided:

"It shall be the duty of the historical bureau to edit and publish documentary and other material relating

to the history of the State of Indiana, and to promote the study of Indiana history in cooperation with the Indiana Historical Society and any other like organization, and to promote the development of the State Historical Museum and the collection of archeological material."

(Acts 1925, ch. 58, p. 190, Sec. 12, Burns' 1933, Secs. 63-802, 63-812.) I do not think that this provision of the 1925 law took away from the Department of Conservation its authority over the State Museum. The administrative construction of the statute is unanimously against that view. However, there is a close relation between the work of the Historical Society and the collection and preservation of the relics of pioneer life in the State Museum, but I believe that the Legislature simply intended that the Historical Bureau should cooperate in the development of the museum so that it might reflect in the exhibits the early history of Indiana.

As to the state battle flags now on the fourth floor of the Capitol, which you say were placed in the custody of the state geologist in 1891, this arrangement was changed in 1915. The Legislature put the care and responsibility for the flags under the Battle Flag Commission, (Acts 1915, ch. 8, Burns' 1933, Secs. 59-901 to 59-905).

OFFICIAL OPINION NO. 24

April 2, 1945.

Hon. Ralph F. Gates, Governor,
State of Indiana,
State House
Indianapolis, Indiana.

Dear Governor:

I have your letter of March 27th in regard to the tenure of office of the present members of the State Athletic Commission. Your letter is in part as follows:

"In reviewing the law, it seems that at its inception, members were to be appointed for one, two and three year periods, in order that the membership of this Commission would be staggered.