

"For county offices or officers to be filled by the electors of a district lying within a county, with the board of deputy state supervisors of the county, not less than sixty days previous to the date of election."

It is apparent therefore that it is too late for the filing of petitions.

In the case of *State ex rel. Cox vs. Payne, et al.*, and three other cases, 117 O. S. 317, 158 N. E. 546, the second branch of the syllabus reads:

"Where a nominating petition is filed with the board of deputy state supervisors of elections in any county, no amendment can be made thereto unless such amendment be filed within the time limited for the filing of the original nominating petition."

If a nominating petition can not be amended after the time limit for filing the same has expired, no argument should be necessary to demonstrate that a petition may not be filed except within the time prescribed by statute.

Your attention is directed to Section 5071, General Code, which provides:

"If there was no nomination for a particular office by a political party, or if by inadvertence, or otherwise, the name of a candidate regularly nominated by such party is omitted from the ballot, and the elector desires to vote for some one to fill such office, he may do so by writing the name of the person for whom he desires to vote in the space underneath the heading or designation of such office, and make a cross mark in the circle at the head of the ticket, in which case the ballot shall be counted for the entire ticket, as though the name substituted had been originally printed thereon."

Clearly this is a case where the electors of Fayette County may write in the name of and vote for a person to serve as judge of the Common Pleas Court vice Judge Reid, deceased.

Upon a careful consideration of your inquiries, it is my opinion that a successor to Judge Reid should be elected on Tuesday, November 6, 1928, to serve for his unexpired term ending February 8, 1933; that it is too late for regular nominations to be made for the office by petition or otherwise; that a blank space should be provided on the non-partisanship judicial ballot for the office of Common Pleas Judge, in which it should be indicated the duration of the unexpired term for which the person is to be elected; that this blank space so provided should be used by the voters, writing in the name of the person for whom they desire to vote; and that the successor for the full term should be elected at the November election in 1932.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2684.

INSURANCE—FOREIGN CORPORATION—CHARTERED TO DO BUSINESS
FORBIDDEN IN OHIO—MAY BE LICENSED IN OHIO TO TRANSACT
APPROPRIATE BUSINESS OF INSURANCE.

SYLLABUS:

A foreign corporation may be licensed to engage in the business of insurance in the State of Ohio, subject to the terms and conditions imposed by law, even though it has been

granted by a charter in the state in which it was incorporated powers which it is forbidden to exercise in Ohio.

COLUMBUS, OHIO, October 8, 1928.

HON. WILLIAM C. SAFFORD, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your letter of recent date, which reads as follows:

“This department has received an application for admission to transact the business of general casualty insurance in this state from the Union Insurance Company of Indiana.

In examining the charter of the company, it appears that the original powers were obtained from the Indiana Legislature, and in addition to authorizing the corporation to issue policies of insurance covering all hazards, they were also permitted to engage in the banking business.

At one time, apparently, the corporation was known as the Savings Assurance Society, and at another time the Commercial Bank. During these periods the corporation transacted a banking business.

Will you please advise me whether or not, in your opinion, such a corporation could properly be licensed by this department to engage in the business of insurance in the State of Ohio.

For your information I am enclosing a certified copy of the charter of the company.”

I also have certified copy of the charter of the company, entitled: “An Act—To Incorporate the Ohio Insurance Company,” approved January 16, 1849, together with certificates of the Secretary of the State of Indiana, accompanied by documents purporting to amend said charter on March 28, 1891, and November 1, 1895, respectively. This charter is too long to set forth here in full, but the provisions thereof affecting the question propounded in your letter are as follows:

“Section 2d. That said Company or corporation shall have full power and lawful authority to insure all kinds of property against loss or damage by fire, or any other cause or risk, to make all kinds of Insurance against loss or damage on goods, merchandise, and produce, in the course of transportation or otherwise, whether on land or on water, to make all kinds of insurance upon vessels or boats wherever they may be, to make all kinds of insurance upon life or lives, to lend money on bottomry or respondentia, to cause themselves to be insured against any loss or risk they may have incurred in the course of their business, and against any maritime or other risk, upon the interest they may have in any vessel, boat, goods, merchandise, or other property by means of any loan or otherwise, and generally to do and perform all other necessary matters and things connected with and proper to promote these objects.”

And also that part of Section 3, which reads as follows:

“Section 3. That it shall be lawful for said company to invest any part of their capital or stock, moneys, funds, or other property, * * * or may loan the same or any part thereof to individuals or corporation of real or personal security, for such periods of time, and under such restrictions and limitations and upon such time as the directors thereof for the time being shall

deem prudent and best, for the interest of said company. That the office of the Ohio Insurance Company be and the same is hereby made an office of discount and deposit, and are hereby authorized to deal in exchange and the discount of promissory notes, and to receive cash and bank bills of any incorporated bank on deposit, for such time and on such interest as may be agreed upon and discount or loan the same on such other funds as they may have on hands upon such time and conditions and upon such rate of interest not exceeding ten per cent per annum as may be agreed upon between said company and the person or persons, company or corporation, discounting or borrowing the same. * * *

Under date of March 28, 1891, a copy of a resolution adopted by the Board of Directors of The Ohio Insurance Company was filed with the Secretary of State of Indiana, purporting to change the name of the company from Ohio Insurance Company to "The Savings Assurance Society".

Under date of November 1, 1895, a further resolution of the Board of Directors of The Savings Assurance Society was filed with the Secretary of the State of Indiana, which provides as follows:

"And on motion, it is resolved, that it is advisable for the Company to do a fire insurance business, and not a life insurance business as was heretofore contemplated, and that it is deemed desirable to adopt a new name for the corporation; it is therefore further

RESOLVED by the Board of Directors, that the name of the Savings Assurance Society be changed, and said Board do select and agree that the new name of said corporation and company shall be UNION INSURANCE COMPANY, and which name is hereby ordained and established as by the Statutes in such cases provided, to-wit, as shown on page 56, Acts of 1891, of the Legislature of Indiana. That these resolutions be entered upon the records of the corporation, and a copy thereof be filed in the office of the Secretary of State."

Section 9385, General Code, provides as follows:

"No company, organized under the laws of this state, shall undertake any business or risk, except as herein provided, and no company, partnership or association, organized or incorporated by act of congress, or under the laws of this or any other state of the United States, or by any foreign government, transacting the business of life insurance in this state, shall be permitted or allowed to take any kind of risks, except those connected with, or appertaining to making insurance on life or against accidents to persons, or sickness, temporary or permanent physical disability, and granting, purchasing and disposing of annuities; nor shall the business of life insurance, or life and accident insurance, in this state, be in any wise conducted or transacted by any company, partnership or association which in this state, or any other state or county, makes insurance on marine, fire, inland, or any other risk, or does a banking or any other kind of business in connection with insurance."

Section 9559, General Code, provides as follows:

"Except surety companies which are admitted to guarantee the fidelity of persons holding places of public or private trust who may be required to

or do in their trust capacity receive, hold, control and disburse public or private moneys or property, and guarantee the performance of contracts other than insurance policies and execute and guarantee bonds required or permitted in all actions or proceedings, or by law allowed, a company, association, or partnership, incorporated, organized or associated under the laws of another state of the United States or of a foreign government, for any of the purposes mentioned in this chapter, which does a banking or other kind of business in connection with insurance, shall not, directly or indirectly, transact any business of insurance in this state, nor shall any such company, association or partnership do any such business in this state until it procures from the superintendent a certificate of authority so to do; nor shall any person or corporation act as agent in this state for such a company, association or partnership, directly or indirectly, in procuring applications for insurance, taking risks or in any way transacting the business of insurance, until it procures from the superintendent a license so to do, stating that the company, association or partnership has complied with all the requirements of this chapter applicable to it, and depositing a certified copy of such license in the office of the recorder of the county in which the office or place of business of such agent or agents is established."

Section 665, General Code, provides as follows:

"No company, corporation, or association, whether organized in this state or elsewhere, shall engage directly or indirectly in this state in the business of insurance, or enter into any contracts substantially amounting to insurance, or in any manner aid therein, or engage in the business of guaranteeing against liability, loss or damage, unless it is expressly authorized by the laws of this state, and the laws regulating it and applicable thereto, have been complied with."

You will note from the above quoted Section 2 of the original charter of the company in question, that it has been granted corporate power to write practically every kind of insurance.

Section 9385, General Code, above quoted, forbids any company to transact life and accident insurance business in this state in addition to any other kind of insurance; and specifically forbids the doing of a banking business or any other kind of business in connection with such insurance business. The prohibition, however, is not against the acquiring of corporate power but against the exercise of that power in the respects indicated.

Section 9559, General Code, specifically forbids the doing of banking or other kind of business in connection with any kind of insurance business, excepting guaranty insurance business.

It is my opinion that the restrictions contained in these two sections do not apply to the corporate or charter powers which may be granted by other states to foreign corporations, but apply merely to the *exercise* of such powers in the State of Ohio. Therefore, the mere fact that the charter of the applicant discloses that its charter powers exceed those which may be authorized to be exercised in Ohio, does not constitute a valid reason for refusing permission to do certain kinds of insurance business in Ohio, without further investigation. You are given ample power under numerous other sections, with which you are familiar, to investigate the financial condition, assets and liabilities and other pertinent facts relating to this applicant. If such an investigation discloses that the applicant is engaged in the banking business or any

other business forbidden by the terms of the above quoted section, Section 9559, you will then have sufficient reason under the law to deny the application, or, if at any future time the reports of this company or any other companies, or investigations which you make concerning the same, disclose that it or they are engaged in business forbidden by a statute, it will be your duty to revoke the license which you may have granted.

Answering your question specifically, it is my opinion that the applicant corporation can properly be licensed by your department to engage in the business of insurance in the State of Ohio even though by its charter it is permitted to engage in the banking business, provided it is otherwise qualified and complies with the terms and conditions imposed by the law of Ohio.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2685.

POOR RELIEF—LEGAL SETTLEMENT DEFINED.

SYLLABUS:

When a woman is a bona fide resident of a county, she may acquire a legal settlement therein for the purpose of relief under the poor laws, notwithstanding that during such period her son has contributed to her support.

COLUMBUS, OHIO, October 8, 1928.

HON. WALTER J. MOUGEY, *Prosecuting Attorney, Wooster, Ohio.*

DEAR SIR:—In your recent communication you request my opinion upon the following statement of facts:

“It appears that the commissioners and the Infirmary Director of this county (Wayne County) are having some difficulty in adjusting a matter on Poor Relief for a certain woman by the name of Mrs. S. with the Commissioners and Infirmary Director of Athens County, Ohio.

The facts of the matter are as follows: Mrs. S. lived all of her life in Athens County and was married and had a family and about nine years ago her husband ran away from her and abandoned and deserted her and she was left in dire financial condition. She had three sons, one son living in Athens County, one son in Wayne County and another son at a different residence which I do not know. The son in Wayne County at that time brought her to his home in the village of Orrville, Ohio, this county, and supported her and took care of her for that period of time. About two months ago he was unable to look after her any longer because of her condition and also because of his financial condition, and she was taken to the Wayne County Infirmary to be cared for.

The County Commissioners and Infirmary Director of this county took the matter up immediately with the proper authorities of Athens County and cited to them the law as we understand it, especially Sections No. 3476 to No. 3484 inclusive, and after some correspondence, the authorities of Athens County refused to accept her on the ground of Section No. 12429 of the General Code of Ohio, which requires a son or daughter who is able to do so to support a destitute parent, stating further that such support by her son