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Looking Back: Making “Free Libraries” Legal in 1902
By Jonathan Jeffrey

Provided below is Kentucky’s enabling legislation for the establishment of free libraries. Prior to this the General Assembly had only granted incorporations to private and subscription libraries. The General Assembly passed three separate acts in order to speak to the disparity in size and resources between cities such as Louisville and communities the size of Corbin. Although much of the legislation is repetitive, significant differences can be found related to library funding and the composition of governing bodies.

This legislation, passed on March 21, 1902, was necessary, due to Andrew Carnegie’s magnanimity. Carnegie is sometimes called the patron saint of America’s public libraries. Between 1886 and 1917, he gave more than \$56 million to build 1,697 public libraries in 1412 American communities. His gift to Kentucky communities totaled \$795,300, which was used to build 23 public libraries. To receive a Carnegie construction grant, communities had to demonstrate need and provide a suitable, debt-free building lot. In addition, the community, or in some cases the local board of education, had to, by ordinance, guarantee to subvent the library’s maintenance in the amount of 10% of the total funds donated. For example, if Carnegie gave a city \$50,000 to build a library, the community had to provide a \$5,000 annual appropriation for the facility’s maintenance and operation. For a Kentucky community, with a population under 20,000, this was illegal according to state statute as no community was allowed to accept any grant that required perpetual maintenance. This was true in most other states as well, but many of those states enacted legislation similar to that below in the late-nineteenth century.

Kentucky was pressured into passing these laws, when library “knockers” in several communities threatened to take library boards to court because they were violating the law. Fortunately the legislation outlined below passed easily and precluded a tangle of lawsuits.

CHAPTER 65

AN ACT to provide for the establishment of free libraries and reading rooms in cities of the third, fourth, fifth and sixth classes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1. The municipal authorities of any city or town of the third, fourth, fifth, or sixth class shall have power to establish and maintain a public library and reading room or rooms for the use and benefit of the inhabitants of such city or town, and for that purpose may levy and collect annually a tax not to exceed ten cents on each one hundred dollars of the assessed value of property therein subject to taxation.

2. When it has been determined to establish and maintain a public library and reading room or rooms for any city or town as above provided, the mayor of such city or chairman of the board of trustees shall, with the approval of the council or board of trustees, as the case may be, proceed to appoint a board of five directors for the same, chosen from residents of the city with reference to their fitness for such office.

3. Such directors shall hold their office for four years from the first day of July in the year of appointment, and until their successors are appointed but upon their first appointment they shall divide themselves at their first meeting by lot into four classes; two directors for four years, one for three years, one for two years, one for one year, and

their terms shall expire accordingly. Vacancies shall be filled in like manner as original appointments. The members of this board shall serve without compensation.

4. Said directors shall, immediately after their first appointment, and annually thereafter in the month of July, meet and organize, by the election of one of their number president, and by the election of a secretary and such other officers as they may deem necessary. They shall make and adopt such by-laws, rules and regulations for their own guidance and for the government of the library and the reading room as they may deem expedient, not inconsistent herewith.

5. All revenue and money paid, collected or received by authority of any provision herein contained, whether by, taxation, gift, devise, bequest or otherwise, shall belong to and be known and designated as the "Library Fund," and shall be paid into the proper city treasury, and there kept separate and apart from other funds, and be drawn therefrom as hereinafter provided, but only to be used and applied to the purposes herein authorized. This board of directors shall have exclusive control of the expenditure of all moneys collected and placed to the credit of said library fund the charge of the construction of any building erected, and the supervision, care and custody of the grounds, rooms, or buildings, constructed, least [*sic*; leased] or set apart for that purpose. This board shall have power to purchase or lease grounds, to occupy, lease, or erect an appropriate building or buildings for the use of said library; to appoint a suitable librarian and necessary assistants, and fix their compensation, and at their discretion to remove such appointees. They shall in general carry out the spirit and intent of this act in establishing and maintaining a public library and reading room or rooms. Said board may order the withdrawal and payment, upon properly authenticated vouchers, duly certified

by the president and secretary, or money from the library fund, for any liability or expenditure herein authorized. Said board may purchase necessary books, journals, publications and other personal property in accordance with their judgment of what is best; but all such expenditures are limited to the amount of the library fund in each fiscal year.

6. Every library and reading room established under this act shall be forever free to the use of the inhabitants of the city where located, always subject to such reasonable rules and regulations as the library board in their discretion may adopt, in order to render the use of said library and reading room or rooms beneficial to the greatest numbers, and said board may exclude from such library and reading room or rooms all persons who shall willfully violate any of its rules: *Provided*, That the board of directors of such library and reading room or rooms may under such rules and regulations as may be deemed by them necessary, and upon such terms and conditions as may be agreed upon, allow non-residence of the city, in which the library or reading rooms are situated, to use the books therein, and may exchange such books with any other public library, either permanently or temporarily, and may send out traveling libraries in their own or adjoining counties; and any such board may contract with the members of the fiscal court of the county in which the library is situated or with the members of the fiscal court of any adjacent county or with individuals or associations, or with the members of the fiscal court, school board trustees or common council of any adjacent county, city, town or school district, to loan the books of said library singly or in traveling libraries to the residence of such county, city, town or school district, who are hereby empowered to make contracts for such purposes, and to pay the consideration agreed upon therein, to

the board of directors of such library and reading room or rooms, out of the county or city treasury, upon the rendering of proper accounts and vouchers therefore.

7. Said board shall, on or before the first Monday in July of each year, make an annual report to the municipal authorities of their city, giving the condition of their trust, with full statements of all property, and money received whence derived, how used and expended; the number of books, journals, and other publications on hand; the number added by gift, purchase, or otherwise during the year; the number lost or missing, the number and character of those loaned, the number of visitors attending, and such other statistics, information and suggestions as may be of general interest. A financial report showing all receipts and disbursements of money shall also be made by the secretary of the board, duly verified by affidavit.

8. Any city or town wherein a public library or reading room or rooms may be established shall have power to pass ordinances for the protection of the same, and all property thereto belonging, and for imposing penalties for the punishment of persons committing injury to such library or reading room or rooms or the property or books thereof, or for failure to return any book or other property belonging thereto. They shall also have power, by ordinance or resolution duly passed for such purpose to grant, donate, or authorize the use of either in whole or in part, any land square or real estate belonging to such city or town, or dedicated to public use therein, for the purpose of erecting and maintaining a building to be used for a public library and reading room as herein authorized.

9. Any person desiring to make donations of money, personal property, or real estate for the benefit of such library shall have the right to vest the title of the property so

donated in the board of directors created under this act, to be held and controlled by such board, when accepted, according to the terms of the deed, gift, devise, or bequest of such property, and as to such property the said board shall be held and considered to be special trustees. (*Acts 147-150*)

Approved March 21, 1902.
(*Acts 155-158*)

CHAPTER 70

AN ACT authorizing the establishment of free public libraries in cities of the second and third classes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1. That as soon as a sufficient fund for that purpose shall be accumulated, under the provisions of this act, augmented by private contributions or otherwise, in any city of the second or third class, there shall be established and maintained in such city a free public library, and in cities of the second or third class wherein, under, under any act of the General Assembly, a free library has been established, the same shall continue as herein provided; said free public library shall be under the direction and control of a board of trustees, consisting of seven members, to be styled the "Board of Trustees of the Public Library," and which said board of trustees of the public library shall continue, and they are hereby declared a body politic and corporate, under said name and style, with perpetual succession, and by that name may contract and be contracted with, sue and be sued, have and use a corporate seal, the same to alter and renew at pleasure, or may act without a seal; may purchase, receive, lease, hold, sell and dispose of real and personal estate for public library purposes. Said board shall have the custody, control,

management and expenditure of all funds that may heretofore have been accumulated for free public library purposes, or that may hereafter be accumulated for or be devoted to said purposes. The mayor of the city and presiding judge of the county court of the county in which the city may be located, in case the county contributes annually to the maintenance of the public library, shall be *ex officio* members of said board, and the remaining five members thereof shall be appointed by the mayor, one for one year, one for two years, one for three years, two for four years, and their successors, as said terms shall respectively expire to be appointed for four years, and shall be so selected and appointed as never to have more than four members thereof of the same political party, and that two members of said board shall be women and five members thereof shall be men. The members of said board so appointed by the mayor shall be citizens and housekeepers of the city and not less than thirty years of age, shall serve without compensation, shall each give a bond in the sum of five thousand dollars, for the faithful performance of their duties, and shall take an oath before the mayor to faithfully perform their duties. Said board shall have no power to charge any of the real or personal property of said corporation with any debt or liability, and shall at no time expend, in the operation or maintenance of said library, or for any other purpose, any money in excess of that annually appropriated by the provisions of this act, and should said board attempt to impose any debt or liability upon the property of said free public library, or make any contract for amounts of money in excess of that annually appropriated by the provisions of this act, all such contracts or liabilities shall be void as against the free public library, and such members of the board as may vote for such debts, liabilities or expenditures of money shall be personally liable for the same.

Said board shall have the power necessary to establish, and when established, to maintain and conduct said free public library and may adopt from time to time rules and regulations for the proper conduct of said library. Said library shall be open and free to the public, under such rules and regulations as the board of trustees may prescribe, during reasonable and proper hours, and sa library may be closed on Sunday, if deemed proper by said board. When there is already established in the city a public or private library, the board of trustees of the public library may enter into an agreement with the association or corporation, owning or controlling such library, whereby such library, including books, real and personal property, may be transferred or leased to said board of trustees of the public library, for a term of years, or in perpetuity, or united with that established by the city under the provisions of this or any former act. Said library shall be strictly non-sectarian and non-partisan, and always so conducted. And the legislative body of the city shall, by a proper ordinance, provide penalties and the method of imposing the same, for the preservation of books, the property of said free public library, and the prevention of trespass upon the grounds thereof, and for the proper conduct of patrons of said library; and all fines and costs collected for the violation of such ordinance or ordinances shall, when collected, be paid over to the board of trustees of said library.

In aid of the establishment and maintenance of such library, there is hereby appropriated, and the general council shall annually direct to be paid over, as the same may be collected, to the board of trustees of the public library, three percentum of the net amount of taxes levied annually in the city for common school purposes, and one-half of the net amount of all fines and costs collected in the police court; and to further aid in the establishment and maintenance of such public library, the general council of the city and

the fiscal court of the county, either or both, jointly or separately, are hereby authorized and empowered to accept, by ordinance, resolution, order or contract (and if necessary, united with the board of trustees of the public library), any donation that may have been offered or may hereafter be offered by Andrew Carnegie, or any other person, association or corporation, and comply with the conditions upon which said donations may be offered and accepted, and make the terms of said contract perpetually binding upon said city and county; and said general council of the city and fiscal court of the county shall annually levy such special tax as may be necessary to comply with said conditions or terms of contract, and to provide the sums of money agreed therein to be paid annually and perpetually for the maintenance of said public library, and shall cause the same to be collected as and when other taxes are collected and paid over promptly to the board of trustees of the public library.

2. Inasmuch as Andrew Carnegie has made an offer to appropriate fifty thousand dollars for the establishment of a public library in one of such cities, on condition that proper provision is made for an annual sum of five thousand dollars perpetually, for the maintenance of the library so established, and it being desirous that said proposition shall be accepted at once, an emergency is declared to exist, and this act shall take effect from and after its passage.

Approved March 21, 1902.
(Acts 155-158)

CHAPTER 71

AN ACT providing for the establishment and maintenance of free public libraries in cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1. That any city of the first class may establish and maintain within its corporate limits a free public library, with circulating and reference departments and reading rooms, or any of them, for the use and benefit of the residents thereof, with such branches and stations as the board of trustees, hereinafter provided, may, from time to time, deem proper or necessary. All the uses and privileges of such library and reading rooms to persons residing outside of such city, upon such terms and conditions as said board may, from time to time, by its regulations, prescribe.

2. The general council of any such city may, by ordinance, signify its purpose or intent to establish a free library under the provisions of this act, and, when it shall have so ordained or resolved, the said city shall thereafter be treated as having exercised its discretion to establish such library and the subsequent provisions of this act shall then become operative.

3. The mayor of any such city shall, as soon as practicable after the passage of this ordinance, name twelve trustees, three for a term of three years, and three for a term of four years; and shall thereafter, in the month of each succeeding year corresponding to the month in which the first appointments are made, in the same manner nominate three trustees for a term of four years. No person shall be eligible to the office of trustee who is not, at the time of his selection, a taxpayer and qualified voter in the city and has not resided therein for two years prior to his selection, and no salary or other compensation shall ever be paid to or received by such trustee for the performance of the duties of his office. The said twelve trustees, together with the mayor of said city, who shall be a trustee by virtue of his office, shall constitute and be styled the Board of Trustees of the

Free Public Library, and by said title shall be a corporation with power to make such rules and regulations to govern itself, and for the control, management and use of the property entrusted to its care as it may be deemed proper, not, however, in conflict with this act, or with the Constitution or laws of the State or of the United States, with power to contract and be contracted with, sue and be sued, to defend and be defended in all courts, to acquire by gift, purchase or otherwise, and to hold real and personal property to the use of the public library, for the purpose and intent for which the same may be granted or dedicated; to use, manage and improve, sell and convey, rent or lease property; to erect suitable building or buildings; to have a common seal and change it at pleasure, and to act with or without a seal. Vacancies in the office of trustee shall be reported by the board to the mayor, and shall be filled in like manner as the original appointments. The said trustees shall, before entering upon the duties of their offices, make oath or affirmation before some judicial officer of this Commonwealth to discharge the duties enjoined on them.

4. The board shall meet once each month, and oftener if necessary, for the transacting of its business. A majority of the board shall constitute a quorum, but no appropriation of money, except for ordinary or current expenditures, shall be made unless upon the affirmative vote of a majority of its members. Except for the purpose of erecting the library building, the board of trustees shall not incur liabilities for any current year in excess of its annual income, including gifts and donations and unexpended balances from previous years. The board shall, at the first meeting after the selection of its members, and annually thereafter, select out of their number a president and vice president, whose duties shall be prescribed by its rules and regulations, and it may choose a secretary and

treasurer and such other officers, agents and servants as it may deem proper and necessary, and may prescribe the duties required of them, fix their compensation, and may remove it appointees at pleasure.

5. All moneys due the board shall be deposited in some chartered bank in said city, to be selected by it, and funds shall be withdrawn from said bank only on order of the board by check of its treasurer countersigned by its president, or by its vice-president when acting in his stead.

6. To raise money for the establishment and maintenance of the library, the general council shall annually, in its levy ordinance, cause to be levied and collected a tax of not less than two and one-half cents or more than four cents on each one hundred dollars' worth of property assessed for taxation for city purposes. Upon the completion of assessment of property for taxation the amount levied as above shall, annually, be passed to the credit of the library fund upon the books of the city treasurer, and the said amount, as collected, shall be paid over to the board of trustees by the city treasurer in regular weekly installments, the first payment to be made within one week after the collection of said amount shall have begun, and the other payments to be made weekly thereafter in current money, by said treasurer, as collected. The board shall annually, in the month of September, make a report to the general council, showing the use of the library for the fiscal year ending the last day of August preceding, the receipts and expenditures of all moneys handled by it during the year, and the giving such other information as may promote the usefulness of said library to the public, or may be called for by the general council. No portion of the property or fund held or raised for any library not exclusively under the control and management of the board of trustees as herein provided.

7. The board of trustees may accept such gifts and donations of property, real and personal, to be used for the purposes contemplated by this act, upon such terms and conditions not in conflict with the constitution and laws of this Commonwealth, as may be agreed upon by the said board of trustees, of the one part, and the donor, of the other part, and the title of the property, as may be soon given or donated, shall be vested in such board of trustees, and the city where in such library may be situated may be a party to any deed or instrument of transfer for the purpose of carrying out such arrangement pertaining thereto as it may lawfully make; and of the purpose of acquiring all property of other corporations, or libraries, or societies, as may be contract or agreement under its rules and regulations, as the board of trustees may recommend.

8. The general council of such city shall have power to pass under ordinances imposing suitable penalties for the punishment of persons committing injury to the library, or upon the grounds or other property thereof, or may be guilty of disorderly conduct in or about the premises of the said library, and for injury to or failure to return any books belonging to said library, under its rules and regulations, as the board of trustees may recommend.

9. In order that there may be no delay in carrying out the provisions of this act, an emergency is declared to exist, and this act shall take effect and be enforced upon its approval by the Governor.

10. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 21, 1902
(Acts 158-162)

WORKS CITED

Acts of the General Assembly of the Commonwealth of Kentucky Passed at a Regular Session of the General Assembly, Which Was Begun and Held on Tuesday, the Seventh Day of January, Nineteen Hundred and Two. Louisville, Ky.: Geo. G. Fetter Printing Co., 1902.