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## [Schuyler v. South Mall Constructors](#)

Supreme Court of New York, Appellate Division, Third Department

September 19, 1969

No Number in Original

### Reporter

32 A.D.2d 454 \*; 303 N.Y.S.2d 901 \*\*; 1969 N.Y. App. Div. LEXIS 3226 \*\*\*

C. V. R. Schuyler, as Commissioner of General Services of the State of New York, et al., Plaintiffs, v. South Mall Constructors, Defendants

**Prior History:** [\*\*\*1] Submission of a controversy upon an agreed statement of facts pursuant to [CPLR 3222](#).

**Disposition:** Judgment granted in favor of plaintiffs declaring that the provision contained in chapter 1 of the Laws of 1969, vesting authority in the Commissioner of General Services to negotiate a contract or contracts for the superstructure construction of the State Library and Museum at the Albany South Mall, is valid and not in contravention of the Constitution of the State of New York and, accordingly, that the agreement between the parties of August 18, 1969 is valid and binding, without costs.

### Core Terms

appropriation, negotiation, appropriation bill

### Case Summary

#### Procedural Posture

Plaintiffs, Commissioner of General Services of the State of New York (commissioner), city, and county, brought an action against defendant constructors under [N.Y. C.P.L.R. 3222](#) to determine whether a provision in the Deficiency Budget, 1969 N.Y. Laws 1, authorizing the commissioner to negotiate a contract for general construction of a library and museum superstructure was violative of the New York Constitution.

#### Overview

The first issue was whether the enactment contravened [N.Y. Const. art. VII, § 6](#). The predecessor to § 6 was [N.Y. Const. art. III, § 22](#) (1894) whose purpose was to

eliminate the legislative practice of tacking on to budget bills propositions, which had nothing to do with money matters. The negotiation provision did not violate the spirit or purpose of [N.Y. Const. art. VII, § 6](#). The bill specifically appropriated over \$ 136,000,000 for the construction of state buildings and other public improvements. Because the negotiation provision concerned an item, which could be constructed with funds from the appropriation, the provision related specifically to some particular appropriation in the bill, even though the particular appropriation to which it related was not precisely itemized in the general appropriation bill. The negotiation provision pertaining to the new state library and museum was not a local law within the meaning of [N.Y. Const. art. III, § 15](#). Because the provision did not violate the constitution, the court sustained the validity of the statutory provision pursuant to which the present contract was negotiated and directed that judgment be granted for plaintiffs.

#### Outcome

The court granted judgment in favor of plaintiffs declaring that the provision contained in 1969 N.Y. Laws 1, vesting authority in the commissioner to negotiate a contract or contracts for the superstructure construction of the state library and museum, was valid and not in contravention of the Constitution of the State of New York, and that the agreement between the parties was valid and binding.

### LexisNexis® Headnotes

Governments > Legislation > Enactment

[HN1](#)  **Legislation, Enactment**

[N.Y. Const. art. VII, § 6](#) states that: No provision shall

be embraced in any appropriation bill submitted by the governor or in such supplemental appropriation bill unless it relates specifically to some particular appropriation in the bill, and any such provision shall be limited in its operation to such appropriation.

Governments > Legislation > Interpretation

### [HN2](#) Legislation, Interpretation

A statutory enactment must be read in the light of its history and purpose. The words of a statute are to be construed with reference to the subject matter and the object sought to be obtained and that construction is to be preferred which furthers the object, spirit and purpose of the statute, N.Y. Statutes § 96. So, too, in construing the constitution, its spirit and purpose should be considered.

Governments > Legislation > Enactment

### [HN3](#) Legislation, Enactment

[N.Y. Const. art. III, § 15](#) provides: No private or local bill, which may be passed by the legislature, shall embrace more than one subject, and that shall be expressed in the title.

Governments > Legislation > Types of Statutes

### [HN4](#) Legislation, Types of Statutes

The word "local" as applied to a bill, act or law means such bill, act or law as touches but a portion of the territory of the state or a part of its people, a fraction of the property of its citizens. A local law is entirely confined in its operation to the property and persons of a specified locality whereas a general law embraces persons or property of the people of the state generally.

## Headnotes/Syllabus

### Headnotes

**Constitutional law -- appropriation bills -- provision in deficiency budget which authorizes Commissioner of General Services to negotiate contract for general construction of library and**

**museum superstructure is constitutional -- negotiation provision relates specifically to some particular appropriation in bill within meaning of State Constitution -- negotiation provision is not local law within meaning of Constitution.**

1. The provision in the deficiency budget (L. 1969, ch. 1) which authorizes the Commissioner of General Services to negotiate a contract for general construction of the library [\*\*\*2] and museum superstructure located at the Albany South Mall Project is constitutional.

2. [Section 6 of article VII of the New York State Constitution](#) provides that "No provision shall be embraced in any appropriation bill submitted by the governor or in such supplemental appropriation bill unless it relates specifically to some particular appropriation in the bill, and any such provision shall be limited in its operation to such appropriation." The bill specifically appropriates over \$ 136,000,000 for the construction of State buildings and other public improvements, including the erection of the building in question. Since the negotiation provision concerns an item which may be constructed with funds from the appropriation, the provision relates specifically to some particular appropriation in the bill.

3. The negotiation provision is not a local law within the meaning of section 15 of article III of the State Constitution.

**Counsel:** *Louis J. Lefkowitz, Attorney-General (Ruth Kessler Toch of counsel)*, for Commissioner of General Services, plaintiff.

*John J. Clyne, County Attorney*, for County of Albany, plaintiff.

*John W. Hacker, Corporation Counsel*, for City of Albany, [\*\*\*3] plaintiff.

*De Graff, Foy, Conway & Holt-Harris* for defendants.

**Judges:** Herlihy, Acting P. J., Reynolds, Staley, Jr., Cooke and Greenblott, JJ., concur.

**Opinion by:** PER CURIAM

## Opinion

**[\*455] [\*\*903]** This is an action on submitted facts, commenced pursuant to [CPLR 3222](#), to determine whether a provision in the Deficiency Budget (L. 1969, ch. 1) authorizing the Commissioner of General Services to negotiate a contract for general construction of the Library and Museum superstructure located at the Albany South Mall Project is violative of the State Constitution.

The first issue is whether the enactment contravenes [HN1](#) section 6 of article VII which states that "No provision shall be embraced in any appropriation bill submitted by the governor or in such supplemental appropriation bill unless it relates specifically to some particular appropriation in the bill, and any such provision shall be limited in its operation to such appropriation."

Since we are dealing with the problem of construction of a constitution, some general rules relating thereto might be briefly stated. [HN2](#) A statutory enactment must be read in the light of its history and purpose ( [Matter of Frasch, 245 N. Y. 174, 180](#)). **[\*\*\*4]** The words of a statute are to be construed with reference to the subject matter and the object sought to be obtained and that construction is to be preferred which furthers the object, spirit and purpose of the statute (McKinney's Cons. Laws of N. Y., Book 1, Statutes, § 96). So, too, in construing our Constitution, its spirit and purpose should be considered ( [Matter of Carey v. Morton, 297 N. Y. 361](#)).

The predecessor to the portion of section 6 quoted above was section 22 of article III which was added to the Constitution of 1894. Its purpose was to eliminate the legislative practice of tacking on to budget bills propositions which had nothing to do with money matters; that is, to prevent the inclusion of general **[\*456]** legislation in appropriation bills ( [People v. Tremaine, 252 N. Y. 27, 48](#); see 1915 Atty. Gen. 368, 375-377).

The negotiation provision in this case does not violate the spirit or purpose of section 6 of article VII.

Even without reference to the purpose of section 6 of article VII we conclude that the negotiation provision relates specifically to some particular appropriation in the bill within the meaning of section 6. The bill, which is **[\*\*\*5]** general in character, specifically appropriates over \$ 136,000,000 for the construction of State

buildings and other public improvements, including the erection of the building in question. Since the negotiation provision concerns an item which may be constructed with funds from the appropriation, the provision relates specifically to **[\*\*904]** some particular appropriation in the bill, even though the "particular appropriation" to which it relates is not precisely itemized in the general appropriation bill.

[People v. Tremaine \(supra\)](#) is distinguishable. There, incorporated in an appropriation bill, was a provision which empowered certain legislative leaders to approve segregations of lump sum appropriations. This was deemed contrary to the constitutional provision prohibiting members of the Legislature from receiving civil appointments. It was argued that since the enactment was germane to the appropriation bill, it complied with section 22 of article III (art. VII, § 6) and was thus constitutional. Section 22 was not held to bar the particular enactment; it was merely held that that constitutional provision could not save the enactment which had already been **[\*\*\*6]** deemed unconstitutional under another section.

The final issue is whether the negotiation provision is a "local" or "private" bill and thus in violation of [HN3](#) section 15 of article III providing: "No private or local bill, which may be passed by the legislature, shall embrace more than one subject, and that shall be expressed in the title."

Determination of this issue requires a brief discussion of the South Mall financing arrangement. The project site was acquired by the State and, pursuant to chapter 152 of the Laws of 1964, conveyed to Albany County in consideration of a 40-year lease and an agreement by the county to issue bonds funding a construction account which periodically repays State "first instance" expenditures. Hard dollar State rental payments to the county are calculated to reduce county bond obligations progressively over the lease period. The final retirement of all county bonds will take place concurrently with the lease expiration and the reconveyance of buildings and site by the county to the State. While the finance cycle involves a conveyance **[\*457]** of title to, and periodic bond flotations by the county, under State tutelage and control, no use or expenditure **[\*\*\*7]** of funds by the locality is actually involved and the entire operation is underwritten by a State indemnification against any "local" loss or expense. Investors in county bonds rely on the State's credit which stands behind the rental and indemnity provisions of the South Mall agreement.

[HN4](#)<sup>↑</sup>] The word "local" as applied to a bill, act or law means such bill, act or law as touches but a portion of the territory of the State or a part of its people, a fraction of the property of its citizens ( [Kerrigan v. Force, 68 N. Y. 381, 383](#)). A local law is entirely confined in its operation to the property and persons of a specified locality whereas a general law embraces persons or property of the people of the State generally ( [People v. O'Brien, 38 N. Y. 193, 194](#)).

**[\*\*905]** Under these definitions the negotiation provision pertaining to the new State Library and Museum is not a local law. While for purposes of financing title vests in the County of Albany, the distinctly State character of the Library and Museum with functions long carried on by the State Department of Education, is clear. The building will exist for the cultural and educational benefit of all the people of **[\*\*\*8]** the State. The fact that the building will lie geographically in the County of Albany has no relevance. Nor does it matter that the residents of the county will be more likely to receive many of its benefits (cf. [Ferguson v. Ross, 126 N. Y. 459, 464](#)). In that respect it is no different from the "State Office Campus" or other public buildings of the State situated in the City of Albany, the State Capital. The negotiation provision, therefore, is not a local law within the meaning of section 15 of article III of the State Constitution.

Since the provision does not violate the State Constitution, we sustain the validity of the statutory provision pursuant to which the present contract was negotiated and direct that judgment be granted for the plaintiffs.

Judgment granted in favor of plaintiffs declaring that the provision contained in chapter 1 of the Laws of 1969, vesting authority in the Commissioner of General Services to negotiate a contract or contracts for the superstructure construction of the State Library and Museum at the Albany South Mall, is valid and not in contravention of the Constitution of the State of New York and, accordingly, that the agreement between **[\*\*\*9]** the parties of August 18, 1969 is valid and binding, without costs.