

Former City Librarian Denied Reinstatement

Ruling that operation of Bartlesville's public library is a municipal concern, District Judge Jess Miracle of Okemah Thursday morning in Washington county district court rejected a petition filed by Miss Ruth Brown, who was discharged as city librarian by city commissioners last July 25, asking that she be reinstated.

IN HIS RULING Judge Miracle, who was appointed to preside over the suit by Judge Denver Davison of the state supreme court after Washington county District Judge James T. Shipman disqualified himself, upheld a new city ordinance, passed on June 14, 1950.

Under the new ordinance, which repealed an ordinance of 1924, a new library board was appointed and the old board was dissolved.

BEFORE ANNOUNCING his findings, Judge Miracle remarked that "regardless of which way I rule the case will be taken to the supreme court."

Thurman Hurst of Tulsa, former supreme court justice and counsel for Miss Brown and Mrs. Darlene Essary, a co-plaintiff in the suit, announced im-

mediately after the hearing that he would file a request for a new trial Thursday afternoon. If this is denied, Hurst said, he will appeal to the supreme court.

BOTH CITY ATTORNEY Alton Rowland, representing the city commissioners, city manager, members of the new library board and Miss Virginia Lasley, recently appointed librarian, who are named as defendants in the suit, and Hurst were in agreement that a "point of law" was the only issue to be decided.

And, in an orderly manner, both attorneys proceeded to delve into lawbooks and similar legal cases to bring out their own opinions on whether or not Miss Brown was discharged in conflict with state statutes as she alleged in her petition.

ROWLAND, THE FIRST attorney to take the floor, pointed out that Bartlesville is a municipal corporation under a charter form of government and that there is a city ordinance that gives city commissioners the privilege to remove the librarian.

"It is obvious that our charter is in conflict with state library statutes. . . our charter does not make it necessary to have a library board . . . the library can be supervised by the city manager," Rowland told the court. "Under the Oklahoma constitution our city charter prevails over state statutes if it is a matter of municipal-ity."

"The state has not attempted to enter the library field. . . it is a municipal rather than a general concern," the city attorney went on.

Rowland cited three reasons library being a municipal concern and these were: 1. The library is a historical municipal affair. . . cities were authorized to establish libraries long before statehood; 2. The supreme court holds a library as a municipal concern, and 3. The Oklahoma legislature has released all control of libraries to cities and counties.

ROWLAND QUOTED a statute passed by the 22nd state legislature as saying "the public library of a council man-

ager city shall be under the supervision or control of an official or board appointed by ordinance," and remarked "that is almost identical with the Bartlesville ordinance — we were almost 25 years ahead of the legislature in that statute."

The state statute is for cities that have no charter and has no application to Bartlesville, Rowland charged.

IN CLOSING, THE city attorney says the rights of self government is sacred and inviolable, the board of commissioners acted under provisions of the freeholders charter, the legislature itself says the library is a city affair, and urged the court to quash the writ of mandamus filed by Miss Brown asking that she be reinstated as city librarian.

In his arguments for the plaintiff, Hurst declared "for 49 years the state legislature has assumed the operation of libraries as a matter of public concern, and the state considers the operation of libraries a state concern."

HE CITED THE STATE library commission and legislation providing for a traveling library and a library for the blind to build up his argument that the state has jurisdiction over city libraries.

"It is certainly a government function in which the state has sovereign interest," the Tulsa attorney said.

State statutes provide libraries in cities or towns over a certain population must have a library board of six persons, provide powers and duties of a city library board, provide members may be removed by causes, provide the library board will have control of the library, and provide that a certain amount of money must be apportioned to the library, Hurst told the court.

"UNTIL THE PAST year Bartlesville acted under this statute," the counsel for the plaintiff continued. "This year the city enacted an ordinance that makes a radical change from the old ordinance and state law."