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1. LIBRARY ASSOCIATION, COUNTY LAW—BOARD OF TRUSTEES—NO AUTHORITY TO EXPEND MONEYS REFERRED TO IN SECTION 3056-4 G. C. TO PROVIDE LIGHTING IN LAW LIBRARY.
2. TRUSTEES MAY CONTRACT FOR ADDITIONAL SHELVING AND RE-ARRANGING OF PRESENT SHELVING IN COUNTY LAW LIBRARY.

SYLLABUS:

1. A board of trustees of a county law library association is without authority to expend moneys referred to in Section 3056-4 of the General Code for the purpose of providing lighting in the law library.

2. A board of trustees of a county law library association may, pursuant to Section 3056-4 of the General Code, contract for additional shelving and the re-arranging of present shelving in the county law library.

Columbus, Ohio, December 22, 1949

Hon. Jackson Bosch, Prosecuting Attorney  
Butler County, Hamilton, Ohio

Dear Sir:

Your request for my opinion reads:

“On February 2, 1948, the board of trustees of the Butler County Bar and Library Association let a contract for additional shelving, lighting and rearranging the present shelving in the quarters occupied by the Butler County Bar and Library Association located in the Butler County Court House, Hamilton, Ohio. The trustees acted under authority of Section 3056-4.

“This improvement was made in order to properly maintain the room occupied by such law library association and the improvements made were in maintenance of such law library association to make the quarters acceptable and usable for the members of the Butler County Bar Association.

“Your opinion is respectfully requested on the following question:

“Can the board of trustees of the Butler County Bar and Library Association make a contract for additional shelving, lighting and re-arranging the present shelving in said library under authority of Section 3056-4 of the General Code, State of Ohio?”

The provisions of law relating to county law libraries are found in Sections 3054 to 3058, inclusive, of the General Code of Ohio. Section 3054 requires that the compensation of a law librarian be paid from the county treasury. Section 3055 reads as follows:

“For the use of such law library, the board of county commissioners of the county shall provide at the expense of the county, a suitable room or rooms with sufficient and suitable bookcases, in the county court house, or if there is no suitable room or rooms to be had therein, any other suitable room or rooms at the county seat, and shall heat and light them. The books and furniture of the law library association used exclusively in such library, shall be exempt from taxation.”

It is apparent that the county commissioners are charged with the duty of providing, at the expense of the county, a law librarian, suitable room or rooms, together with heat and light, and suitable bookcases, in the court house or elsewhere.

Sections 3056, 3056-1, 3056-2 and 3056-3, General Code, provide for the payment of certain fines arising in the various courts of the state to such county law library association. Section 3056-4 reads as follows:

“The money so paid under the foregoing sections of the statute shall be expended in the purchase of law books and in the maintenance of such law library associations.”

What are the duties of the law library association so far as same relate to the moneys received from the various courts of the state? As set forth in Section 3056-4, *supra*, those duties are to purchase law books and maintain such law library. However, it is further provided in Section 3058 that:

“On the first Monday of each year, the trustees of the association shall make a detailed statement to the auditor of the county, verified by the oath of the treasurer of the association, of the amount of the fines and penalties so received, and of the money expended by the association.

“In the event the total amount received under sections 3056, 3056-1, 3056-2 and 3056-3 of the General Code during the preceding calendar year covered by such report exceeds the expenditures during the same period, the county auditor shall certify such fact to the trustees of the association, who shall thereupon direct the treasurer of the law library association to refund or repay, pro rata to the treasurers of the political subdivisions from which such balance was received, not less than 90 per cent of any unencumbered balance on hand from the preceding year.”

The above section was discussed by the then Attorney General in Opinion No. 6379, Opinions of the Attorney General for 1943, in which it was held in the second branch of the syllabus:

“The surplus required by the terms of Section 3058, General Code, to be refunded by the trustees of a law library association, arises solely from moneys received by the association under Sections 3056, 3056-1, 3056-2 and 3056-3 of the General Code.”

Your question relates to an expenditure of moneys for the purpose of providing lighting, additional shelving and re-arranging the present shelving. If the association were permitted to use the funds arising from the fines for the purpose of providing lighting, it is evident that this would reduce the funds for which an accounting is required to be made, and also a repayment to the political subdivision from which they were received. That is clearly not within the power of the association, in view of Section

3055, which requires the county commissioners to provide for same. However, it is noted that Section 3055 makes no reference to shelving, and it therefore becomes necessary to scrutinize Section 3056-4, General Code, hereinabove referred.

In Words and Phrases, Vol. 26, at page 81, it is said:

“To ‘maintain’ means to preserve or keep in an existing state or condition, and embraces acts of repair and other acts to prevent a decline, lapse or cessation from that state or condition, and has been taken to be synonymous with ‘repair.’”

In so far as the properties referred to in Section 3055, supra, are concerned, it is my opinion that the above definition is applicable to expenditures of moneys received by virtue of certain fines.

The purchase of law books would include the purchase of periodicals such as law journals, etc. and would necessitate such structures as shelving; and since the county commissioners are not specifically charged with the duty of providing same, I am of the opinion that such expenditure by the law library association would be a legal one and within the meaning of Section 3054-4, supra.

It should be noted that Section 3058 of the General Code relates in no way to moneys and income arising wholly independent of the law relating to moneys received from fines. For informational purposes only, your attention is directed to Opinions of the Attorney General for 1946, Opinion No. 1243, at page 701:

“It would seem to follow that it would be quite within the discretion of the trustees out of these independent funds belonging to them to pay to the librarian such compensation as they saw fit in addition to that provided by law to be paid by the county.”

You are therefore advised that:

1. A board of trustees of a county law library association is without authority to expend moneys referred to in Section 3056-4 of the General Code for the purpose of providing lighting in the law library.

2. A board of trustees of a county law library association may, pursuant to Section 3056-4 of the General Code, contract for additional shelving and the re-arranging of present shelving in the county law library.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.