

meeting be given. I suggest therefore that the certificate should recite that thirty days' notice of this meeting was given.

I am herewith returning the amended charter of said company without my approval.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4312.

MUNICIPAL COURT—FOSTORIA—DISTRIBUTION OF FINES TO LAW LIBRARIES OF SENECA, HANCOCK AND WOOD COUNTIES.

SYLLABUS:

Distribution of fines in the Municipal Court of Fostoria discussed.

COLUMBUS, OHIO, May 11, 1932.

HON. PAUL A. FLYNN, *Prosecuting Attorney, Tiffin, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent inquiry which reads:

“On January 1, 1932, there will be established in the City of Fostoria, a municipal court, the jurisdiction of which includes Jackson and Loudon Townships in Seneca County, Washington Township in Hancock County, and Perry Township in Wood County.

The Secretary-Treasurer of the Law Library of this county, namely, Seneca, has inquired as to what disposition will be made of liquor fines collected by the Fostoria Municipal Court; in other words, in what proportion will fines be divided among the Law Library Associations of the three counties?”

Section 3056, General Code, as amended by the 89th General Assembly in House Bill No. 52, reads as follows:

“All fines and penalties assessed and collected by a municipal or police court for offenses and misdemeanors prosecuted in the name of the state, except a portion thereof equal to the compensation allowed by the county commissioners to the judge of the municipal court presiding in police court, clerk and prosecuting attorney of such court in state cases shall be retained by the clerk and be paid by him monthly to the trustees of such law library associations, but the sum so retained and paid by the clerk of said municipal or police court to the trustees of such law library association shall in no month be less than 15 per cent of the fines and penalties collected in that month without deducting the amount of the allowances of the county commissioners to said judges, clerk and prosecutor.

In all counties the fines and penalties assessed and collected by the common pleas court and probate court for offenses and misdemeanors prosecuted in the name of the state, shall be retained and paid monthly by the clerk of such courts to the trustees of such library association, but the sum so paid from the fines and penalties assessed and collected

by the common pleas and probate courts shall not exceed five hundred dollars per annum. The money so paid shall be expended in the purchase of law books and the maintenance of such association.

It is provided, however, that not to exceed five hundred dollars per annum of the county's share and not to exceed one thousand dollars per annum of the municipality's share of the fines and penalties collected by the common pleas, probate, or a municipal or police court for the violation of the prohibition laws shall be subject to the provisions of this section, and provided further that the total amount paid hereunder in any one calendar year by the clerk of any municipal or police court to the trustees of such library association shall in no event exceed six thousand dollars per annum; and when that amount shall have been so paid to the trustees of such law library association, in accordance with the foregoing provisions of this section, then no further payment shall be required hereunder, in that calendar year, from the clerk of such court."

This bill in its present form, was passed April 7, 1931, approved April 22nd and filed in the office of the Secretary of State on April 24th in said year. The Legislature, in the same session, in House Bill No. 89, established the "municipal court of Fostoria, Ohio." The act requires said court to be presided over by a "municipal judge" and provides further that the court shall be a court of record for the city of Fostoria, in Seneca County the townships of Louden and Jackson, in Hancock County the township of Washington and in Wood County the township of Perry. Section 3 of said House Bill No. 89, which provides for the payment of compensation of such judge, reads:

"Said municipal judge shall receive such compensation, payable out of the treasury of Seneca county, not less than nine hundred dollars per annum, payable in quarterly installments, as the county commissioners may prescribe, and out of the treasury of Hancock county such compensation not less than three hundred dollars per annum, payable in quarterly installments, as the county commissioners may prescribe, and such compensation out of the treasury of Wood county, not less than one hundred dollars, payable in quarterly installments, as the county commissioners may prescribe, and such compensation payable out of the treasury of each of the townships of Louden and Jackson in Seneca county, Washington in Hancock county, and Perry in Wood county, not less than the sum of one hundred dollars per annum, payable in monthly installments as the township trustees of said township respectively may prescribe, and such further compensation not less than fifteen hundred dollars per annum, payable in monthly installments out of the treasury of the city of Fostoria, as the council thereof may prescribe."

Section 6 of the act provides that the municipal judge shall be elected at the municipal and township elections of 1931, and his term of office shall commence on the first day of January, 1932. Section 35 of the act, among other things, requires the clerk of the municipal court, on the first day of each month, in each year, to "pay to the county treasurer of the proper county all fines collected for the violation of state laws, except such portion thereof as is or may hereafter be authorized to be paid to a municipal or other political subdivision."

In view of the fact that House Bill No. 89 was passed later than House Bill No. 52, it could be argued that no fines were due to the law library association

which were collected by such court. However, inasmuch as the act requires the fines for violation of state law to be paid to the proper county or other political subdivision there would seem to be no definite provision that could be said to be inconsistent with Section 3056, General Code. In any event, in view of the fact that House Bill No. 89 did not become operative until the November election in 1931, and in view of former opinions to the effect that it was the intention of the Legislature in the amendment of Section 3056, General Code, by the 88th General Assembly, to include all municipal and police courts, it is not believed logical to argue that the fines collected by such municipal court are not subject to the provisions of Section 3056. However, in analyzing this section, in view of the fact that parts of three counties comprise the jurisdiction of the municipal court in Fostoria, your question becomes difficult. Said section speaks of "county" in the singular, and in so far as that act in itself is concerned, it would not seem to have contemplated a situation such as you describe. It is clear that certain deductions are to be made equal to the compensation allowed by the county commissioners to the judge of the municipal court, clerk and prosecuting attorney before any distribution is to be made to the library association. House Bill No. 89, provides for the payment of certain compensation of the municipal judge by each of the three counties involved in your question. Therefore, taking the two acts together, it is not difficult to reach the conclusion that in the distribution of the fines after the deduction of the allowances made by the county commissioners from the three counties involved, said fines are to be distributed to the law library associations of the three counties. In what manner the distribution should be made is, as a matter of law, unanswerable. The implication is clear that the three counties are to participate for the reason that a deduction shall be made of the allowance paid by each of the three counties toward the budget salary. There is no guide in the statute as to how such moneys shall be divided among the library associations of the respective counties. It is suggested, however, from a practical standpoint that, inasmuch as deductions are made with reference to the amount that is paid by each county, an equitable distribution of said fine may be made in proportion to the amount which each county contributes to the support of the court. As heretofore indicated, this suggestion is not a requirement of the law but is a practical method which it is believed may be employed to arrive at a distribution of the fines referred to in your communication. If this method is followed, it is believed the Bureau of Inspection and Supervision of Public Offices will raise no questions with reference to such a distribution, and in view of the equitable result, it is probable that the courts would not disturb such action.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4313.

ARCHITECT—LICENSE BY EXEMPTION FROM EXAMINATION—CHIEF
OCCUPATION MUST HAVE BEEN THAT OF ARCHITECT—PRACTICE OF ARCHITECTURE DEFINED.

SYLLABUS:

1. *Where a person who is employed as a draftsman by a firm of architects and is known to the profession and to the public only as a draftsman, has rendered some architectural services outside of his regular employment as such draftsman, such person has not been engaged in the practice of architecture so as to entitle him to*