

ply on its face with the provisions of the Uniform Bond Act and thereby be construed to be incontestable under the provisions of Section 2293-37, General Code, since bonds issued by any subdivision must specify on their face the resolution or ordinance under which they are issued. Section 2293-8, General Code. This specification should not only refer to the number of the ordinance or resolution, but also the date of its passage.

I, accordingly, advise you not to purchase these bonds.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1193.

LAW LIBRARY ASSOCIATION—AMOUNT RECEIVABLE FROM PROBATE AND COMMON PLEAS COURTS PER CALENDAR YEAR—SUGGESTION FOR KEEPING RECORDS TO PREVENT OVER-PAYMENT.

SYLLABUS:

1. *Under the provisions of Section 3056, General Code, as amended by the Eighty-eighth General Assembly, the Law Library Association is entitled to receive from the Probate Court and the Court of Common Pleas the sum of \$500.00 during any calendar year.*

2. *The method of keeping records to prevent over-payment by the clerks of such courts to the Law Library Association is a proper question to present to the Bureau of Inspection and Supervision of Public Offices, which prescribes the accounting system for such offices.*

COLUMBUS, OHIO, November 14, 1929.

HON. JOHN K. SAWYERS, JR., *Prosecuting Attorney, Woodsfield, Ohio.*

DEAR SIR:—Your recent communication reads:

“Some time ago I wrote you with reference to an opinion construing Section 3056 of the General Code of Ohio (Amended Senate Bill No. 146). At that time you forwarded me your Opinion No. 929, which discussed the subject and which it was thought would cover the questions submitted by me to you. I turned said opinion over to the clerk of courts for his study and thought the matter was ended. However, the clerk of courts is still withholding the money and still insists upon further advice in the matter.

The question in particular that he wants answered is—What does ‘per annum’ mean, as used in the second paragraph of said Section 3056? (Please give dates of the beginning and ending of the year referred to.)

What the clerk wants to know is whether or not \$500.00 is to be paid to the Law Library Association for the calendar year of 1929, or whether \$500.00 is to be paid to the Law Library Association for a year beginning at the effective date of said Amended Section 3056 of the General Code.

I have advised the clerk of courts that the county should pay \$500.00 to the Law Library Association for the calendar year of 1929, despite the fact that the act did not become effective until the latter part of July of said year. I have also advised the clerk of courts that \$500.00 would be payable for the calendar year of 1930 and so on.

The clerk of courts also wants to know as to what kind of reports should be made between the Common Pleas Court Clerk and the Probate Court in order to guard against over-payment of the Law Library's share of liquor fines. In other words, where the Probate Court and the Common Pleas Court both handle liquor cases, how should those courts pay in their money to the Law Library Association so as not to exceed the \$500.00 limit for the county's share of liquor fines payable to the Law Library Association?"

The main question presented in your inquiry, as I understand it, is as to what constitutes the year referred to in Section 3056 of the General Code, as amended. The language of the section which gives rise to your question is found in the second paragraph of said section, which provides :

"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."

The term "per annum", strictly speaking, signifies "by the year" or "through the year". See Words and Phrases, in Bouvier's Law Dictionary. The term standing alone probably would not have reference to any fixed time except, as above stated, it indicates "through the year". In reference to the time of payments of interest on promissory notes, the term "per annum" is frequently used and, of course, has reference to the year that the note is to run from its date. However, your inquiry is simplified by reason of the provisions of Section 260-1 of the General Code, as amended by the Eighty-sixth General Assembly, 111 Ohio Laws, 371, which provide in part :

"Beginning with January 1, 1928, the fiscal year of the State and beginning with January 1, 1926, the fiscal year of every county, municipal corporation, including charter municipalities, school district, township or other political subdivision or taxing district, and of every officer, department, commission, board or institution thereof, shall begin at the opening of the first day of January of each calendar year and end at the close of the succeeding thirty-first day of December. All provisions of law heretofore or hereafter enacted and relating to the levying of taxes, the collection, appropriation or expenditure of revenues or the making of financial reports or statements for a fiscal year or other year shall be construed to refer and apply to the fiscal year as herein defined, except that reports required by title V, chapter 5, part second, of the General Code shall be for the school year as defined in Section 7689 of the General Code."

Since the enactment of the above section in its present form, it is believed that the Legislature in referring to a year usually refers to the calendar year or fiscal year unless there are special provisions dealing with a particular subject which makes the year otherwise, as in the case of a school year. Therefore, it would appear that under the provisions of Section 3056, General Code, the Law Library Association is entitled to receive the sum of \$500.00 during the calendar year. I am informed that the Bureau of Inspection and Supervision of Public Offices has been giving

such instructions, which, of course, is in accord with the advice that you state you have heretofore given to the clerk.

Your inquiry presents the further question as to what method should be adopted to guard against over-payment of the Law Library Association, in view of the fact that Courts of Common Pleas and Probate Courts both handle cases from which the fines arising may be distributed to the Law Library Association. Of course, this situation is no different from a legal standpoint now than before the law was amended, because the Law Library Association received funds from both sources prior to the amendment. There may be a practical distinction in many counties for the reason that now probably funds will be available and in many cases the Law Library Association may have the maximum amount, whereas under the original law probably in many instances there were not sufficient fines collected to enable the library to receive said maximum. In any event, it is purely a question of bookkeeping, and it is suggested that this would be a proper question to present to the Bureau of Inspection and Supervision of Public Offices, which has charge of the prescribing of necessary accounting systems. It may be stated, however, that the law contemplates such distribution to be made monthly, and at the end of a given month if the clerk of the Probate Court and the clerk of the Common Pleas Court would compare accounts and take into consideration the sum that had already been paid to the Library Association, it should not be difficult to guard against over-payment.

In view of the foregoing, and in specific answer to your inquiries, you are advised:

1. Under the provisions of Section 3056, General Code, as amended by the Eighty-eighth General Assembly, the Law Library Association is entitled to receive from the Probate Court and the Court of Common Pleas the sum of \$500.00 during any calendar year.
2. The method of keeping records to prevent over-payment by the clerks of such courts to the Law Library Association, is a proper question to present to the Bureau of Inspection and Supervision of Public Offices, which prescribes the accounting system for such offices.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

1194.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND HOWELL AND THOMAS, CLEVELAND, OHIO, FOR ARCHITECTURAL SERVICES IN CONNECTION WITH LIBRARY BUILDING, OHIO UNIVERSITY, ATHENS, OHIO.

COLUMBUS, OHIO, November 14, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and opinion a contract between the State of Ohio, acting by and through the Department of Public Works, for and on behalf of the Board of Trustees of Ohio University, Athens, Ohio, and Howell and Thomas, of Cleveland, Ohio, for architectural services in connection with Library Building and Equipment at said university, and providing for compensation to the architect in an amount equal to five and one-half per cent (5½%) of the amount paid out by the State of Ohio under and on account of contracts entered into by the State for the construction of said improvement.