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LIBRARIAN — COUNTY LAW LIBRARY — COMPENSATION LIMITED BY SECTION 3054 G. C.—AMOUNT FIXED BY JUDGE OR JUDGES, COMMON PLEAS COURT — TRUSTEES HAVE NO AUTHORITY TO PROVIDE FOR ADDITIONAL COMPENSATION FROM FUNDS ACCRUING UNDER SECTIONS 3056, 3056-1, 3056-2, 3056-3 G. C.

SYLLABUS:

Section 3054, General Code, limits the compensation of the librarian of a county law library to be paid out of public funds to the amount fixed by the judge or judges of the common pleas court, and the trustees of a law library association do not have authority to provide for additional compensation to such librarian from funds accruing to such association under the provisions of Sections 3056, 3056-1, 3056-2, and 3056-3, General Code.

Columbus, Ohio, October 15, 1946

Bureau of Inspection and Supervision of Public Offices
Columbus, Ohio

Gentlemen :

Your request for my opinion reads as follows:

“Section 3054, General Code, permits the judge or judges of the Common Pleas Court of any county, in which there is a Law Library Association which furnishes to all of the court officers and judges of the several courts in the county admission to its library and the use of its books free of charge, upon the appointment by the trustees of such association of a person to

act as librarian thereof, to fix the compensation of such librarian, which shall be paid from the county treasury.

In counties where not more than one judge of the Common Pleas Court holds regular terms of court at the same time, the compensation so fixed so to be paid to the librarian shall not exceed the sum of five hundred dollars per annum.

Question: Does Section 3054, General Code, limit the compensation of the law librarian to the amount fixed by the judge or judges of the Common Pleas Court and paid from the county treasury, or do the trustees of the Library Association have authority to provide for the payment of additional compensation to such law librarian from funds accruing to such Association under the provisions of Sections 3056, et seq., General Code?"

The provisions of law relative to the support of county law libraries are found in Sections 3054 to 3058, inclusive, of the General Code. Section 3054 reads as follows:

"The judges of the court of common pleas of any county in which there is a law library association which furnishes to all of the county officers and the judges of the several courts in the county admission to its library and the use of its books free of charge, upon the appointment by the trustees of such library association of a person to act as librarian thereof, shall fix his compensation, which shall be paid from the county treasury. In counties where not more than one judge of the court of common pleas holds regular terms of court at the same time, the compensation so to be paid such librarian shall not exceed the sum of five hundred dollars per annum."

Section 3055 requires the county commissioners to provide, at the expense of the county, a suitable room or rooms together with heat and light and suitable bookcases, in the court house or elsewhere, for the accommodation of the law library.

Sections 3056-1, 3056-2, 3056-3 provide for the payment to such county law library of certain fines arising in the various courts of the state. Section 3056-4, General Code, 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 maintenance of such law library associations."

It will be observed that the legislative plan contemplates two distinct methods of subsidy for a county law library. First, the county is

required to pay from the county treasury the salary of the librarian, with certain limitations, together with the cost of providing quarters and bookcases. Second, certain moneys arising from fines are to be paid to the library which must be used in the purchase of law books and in maintenance of such library associations. It will be observed further that the salary of the librarian, as above provided for, does not come into the hands of the library association and does not form any part of the fund which is to be used for the purchase of law books and the support of the library. Section 3058, General Code, provides as follows:

“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.”

This section by its explicit terms relates to the moneys received from fines under the provisions of the sections of the statute named. The funds which must be accounted for, and the excess which must be repaid to the political subdivisions from which they were received, include only the moneys received from such fines and the provisions of law relative thereto do not in any way affect any other moneys which the association may have obtained either from gifts or membership dues or otherwise, nor do the moneys provided by the county for payment of the librarian's salary or the quarters for the library, have anything to do with the moneys to be so accounted for.

If the trustees of the library association were permitted, as suggested by your inquiry, to use the funds thus arising from fines to supplement the salary paid to the librarian by the county, it is evident that they would have it within their power to greatly reduce or exhaust the funds for which they are required to account and which they are required

to repay to the political subdivisions from which they were received. That is clearly not within the power of the trustees under the statutes above referred to.

As I have above suggested, the library association may have in its hands moneys and income arising wholly independent of the provisions of the law to which attention has been called. For these moneys it is not required by any statute to make any accounting. In an opinion by my immediate predecessor found in 1943 Opinions Attorney General, page 532, it was held:

“The payments required by Section 3056, General Code, to be made by the clerk of a municipal court to the trustees of a law library association are not to be reduced or in any way affected by the receipt or possession by such association of moneys obtained from gifts or other sources independent of those received pursuant to the terms of Sections 3056, 3056-1, 3056-2 and 3056-3 of the General Code.

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.”

The then attorney general in commenting on the obligation to account for and refund the surplus of proceeds arising from fines, said.

“This provision likewise by its plain terms relates solely to moneys received from fines, penalties, etc., which have been paid to the association pursuant to the sections of the statute which are named, and can have no reference whatsoever to funds which the association may have acquired independently.

It therefore follows that a fund which has been built up by donations from the librarian of the law library association is wholly beyond the purview of the statutes under consideration in determining either the obligation of the clerks of any of the courts or the treasurers of any of the subdivisions named in the statutes to make contributions to such association, or in arriving at the balance, if any, which is subject, under the terms of Section 3058, to refund or repayment to the political subdivisions from which the moneys were received.”

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.

Accordingly, in specific answer to your question it is my opinion that Section 3054, General Code, limits the compensation of the librarian of a county law library to be paid out of public funds to the amount fixed by the judge or judges of the common pleas court and that the trustees of a law library association do not have authority to provide for additional compensation to such librarian from funds accruing to such association under the provisions of Sections 3056, 3056-1, 3056-2 and 3056-3, General Code.

Respectfully,

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Attorney General