

opinion that (1) the expenses of a board of elections of a county for rental of polling places shall be paid in all instances from the county treasury in pursuance of appropriations by the county commissioners upon vouchers of the board of elections certified to by its chairman or acting chairman and its clerk or deputy clerk, upon warrants of the county auditor; and (2) the moneys so expended for a political subdivision within a county shall be charged back to such subdivision for (a) primaries and elections in odd numbered years, (b) all special elections, and (c) conducting registration within such subdivision, when required, and the amount so charged shall be withheld by the county auditor from the moneys payable thereto at the next tax settlement.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1037.

BUILDING AND LOAN ASSOCIATION, STATE CHARTERED—
WHERE IT HAS OBTAINED INSURANCE OF ACCOUNTS
—NATIONAL HOUSING ACT—FIDUCIARY MAY INVEST
SUCH FUNDS BELONGING TO TRUST IN SHARES OR
CERTIFICATES OR OTHER EVIDENCES OF DEPOSIT—
WHERE SUCH ASSOCIATION HAS NO INSURANCE OF
ACCOUNTS—FIDUCIARY REQUIRED TO SECURE AP-
PROVAL OF PROBATE COURT IN RE INVESTMENT—
AMOUNT INVESTED SHALL NOT EXCEED \$5,000.00.

SYLLABUS:

1. *Under the terms of Section 10506-41, General Code, as amended by the 93rd General Assembly, a fiduciary may invest such funds belonging to his trust, as are to be invested, in shares and certificates or other evidences of deposit issued by a State chartered building and loan association organized under the laws of the State of Ohio, which has obtained insurance of accounts as provided in Title 4 of the National Housing Act of 1934 and amendments thereto; but where such State chartered building and loan association organized under the laws of the State of Ohio has no insurance of accounts, the fiduciary may invest such funds in shares or certificates of such association, provided he secures the approval of the Probate Court to make the investment.*

2. *The amount which may be invested in such shares, certificates, or*

other evidences of deposits of any individual building and loan association shall not exceed \$5,000.

COLUMBUS, OHIO, August 14, 1939.

HON. FERDINAND E. WARREN, *Prosecuting Attorney, Ottawa, Ohio.*

DEAR SIR: I am in receipt of your letter of recent date which reads as follows:

“Ohio General Code 10506-41 as amended and to become effective September 2nd, 1939, sub-sections (1) and (m) read as follows:

(1) Shares and certificates or other evidences of deposits issued by a state chartered building and loan association organized under the laws of the state of Ohio and which has obtained insurance of accounts as provided in title IV of the national housing act of 1934 and amendments thereto, or as may be hereafter provided by law, to the extent and only to the extent that said shares, certificates or other evidences of deposits are insured under said act and the amendments heretofore and hereafter made thereto.

(m) Shares and certificates or other evidences of deposits issued by a state chartered building and loan association organized under the laws of the state of Ohio, provided, however, that no fiduciary shall have authority to invest such funds in such shares or deposits except with the approval of the probate court, and then in an amount not to exceed the amount which the fiduciary would be permitted to invest under paragraph 1 of this section.

In your opinion, can a fiduciary, including a guardian, invest in shares or certificates of a building and loan association operating under a charter issued by the State of Ohio, which has no Federal insurance of any kind, provided the Probate Court approves such an investment?

If such investment may be made, what is the maximum investment permitted under these two sections in such an association?

Further, what is the maximum that a fiduciary may invest in a savings and loan association organized and chartered under the laws of the state of Ohio, which has obtained Federal insurance?”

House Bill No. 293, which was passed by the 93rd General Assembly on the eighteenth day of May, 1939, and signed by the Governor and filed in the office of the Secretary of State on the third day of June, 1939,

amends sections 10506-41 and 10506-45 of the General Code of Ohio, to augment the classes of investments in which a fiduciary may place the funds belonging to his trust. It reads in part as follows:

“Sec. 10506-41. Except as may be otherwise provided by law or by the instrument creating the trust, a fiduciary having funds belonging to the trust which are to be invested may invest them in the following:

* * * * * * * * *

(1) Shares and certificates or other evidences of deposits issued by a state chartered building and loan association organized under the laws of the state of Ohio and which has obtained insurance of accounts as provided in title IV of the national housing act of 1934 and amendments thereto, or as may be hereafter provided by law, to the extent and only to the extent that said shares, certificates or other evidences of deposits are insured under said act and the amendments heretofore and hereafter made thereto.

(m) Shares and certificates or other evidences of deposits issued by a state chartered building and loan association organized under the laws of the state of Ohio, provided, however, that no fiduciary shall have authority to invest such funds in such shares or deposits except with the approval of the probate court, and then in an amount not to exceed the amount which the fiduciary would be permitted to invest under paragraph 1 of this section.

* * * * * * * * *

In Lewis' Sutherland Statutory Construction, at page 695, we find this rule of law:

“In construing statutes the proper course is to start out and follow the true intent of the legislature and to adopt that sense which harmonizes best with the context and promotes in the fullest manner the apparent policy and objects of the legislature.” And in the same volume at page 698:

“* * * ‘and if the words are free from ambiguity and doubt, and express plainly, clearly and distinctly the sense of the framers of the instrument, there is no occasion to resort to other means of interpretation. It is not allowable to interpret what has no need of interpretation.’ The statute itself furnishes the best means of its own exposition; and if the sense in which words were intended to be used can be clearly ascertained from its parts and provisions, the intention thus indicated will prevail without resorting to other means of aiding in the construction.”

The language of the authors expresses a fundamental and controlling rule of law which we find no difficulty in following in the instant case.

From the simple and direct language of sub-section (1) I can reach no other conclusion but that the Legislature intended that a fiduciary would have the power to invest funds belonging to his trust, which are to be invested, in shares and certificates or other evidences of deposit issued by a State chartered building and loan association organized under the laws of Ohio, which has obtained insurance of accounts, as provided in Title 4 of the National Housing Act of 1934, and any amendments thereto. It is also apparent that when the Legislature enacted this bill into law it was intended by the language of sub-section (m) to empower a fiduciary to invest such funds of his trust in shares or certificates of a building and loan association chartered by the State of Ohio, which has not secured Federal insurance of accounts, upon condition that the fiduciary obtain the approval of the Probate Court to make such investment.

That part of Title 4 of the National Housing Act referred to in House Bill No. 293, is found in 4 F. C. A., Title 12, Section 1728, and reads:

Sec. 1728 (a). "Each institution whose application for insurance under this title is approved by the Corporation (Federal Savings and Loan Insurance Corporation) shall be entitled to insurance up to the full withdrawal or repurchasable value of the accounts of each of its members and investors (including individuals, partnerships, associations, and corporations) holding withdrawals or repurchasable shares, investment certificates, or deposits, in such institution; except that no member or investor of any such institution shall be insured for an aggregate amount in excess of \$5,000.

* * *

It is quite clear from the language of this section when it is read in conjunction with paragraphs (1) and (m) of Section 10506-41, as amended, that the Legislature sought to impose a limit beyond which a fiduciary may not invest in evidences of deposits of any individual building and loan association and chose as that limit the amount for which the investment is insured which, by the present provisions of the National Housing Act above quoted, is \$5,000.

You are therefore advised, in specific answer to your inquiry, that a fiduciary, and this term includes a guardian, may invest not to exceed \$5,000 of the funds of his trust, which are to be invested, in shares or certificates or other evidences of deposits of any individual building and loan association organized under the laws of the State of Ohio and chartered by it, which has obtained insurance of accounts, as provided in Title 4 of the National Housing Act of 1934; and a fiduciary, with the approval of the Probate Court, may invest not to exceed \$5,000 in shares

or certificates of any individual State chartered building and loan association organized under the laws of the State of Ohio, which has no insurance of accounts.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1038.

PROSECUTING ATTORNEY—EMERGENCY—EXTRA STENOGRAPHIC WORK—CIVIL OR CRIMINAL MATTERS—PURCHASE BOOKS—OFFICE USE, PERFORMANCE OF OFFICIAL DUTIES—MAY USE FUNDS PROVIDED IN SECTION 3004, G. C.

SYLLABUS:

1. *The prosecuting attorney may use the funds provided in Section 3004, General Code, to pay extra stenographic help needed to meet emergencies due to unusual work in civil or criminal matters.*

2. *The prosecuting attorney may legally use the funds provided in Section 3004, General Code, for the purchase of books for use in his office in the performance of his official duties.*

COLUMBUS, OHIO, August 15, 1939.

HON. ELLIS W. KERR, *Prosecuting Attorney, Troy, Ohio.*

DEAR SIR: I have your recent request for my opinion, in which you inquire as to whether or not funds provided Prosecuting Attorney by Section 3004 of the General Code may be used to pay extra stenographic help needed to meet emergencies or due to the unusual work in civil or criminal matters, which work could not possibly be handled by the regular stenographic staff, and whether or not such funds may also be used to purchase a set of Ohio reference books or text books which the Prosecuting Attorney needs for research in compiling official opinions and advising those officers whom he represents, where no other appropriation for the purchase of such books has been made.

Your inquiry necessitates a consideration of Sections 2914, 2915 and 3004 of the General Code.

Section 2914, General Code, provides:

“On or before the first Monday in January of each year in each county, the judge of the court of common pleas, or if there be more than one judge, the judges of such court in joint session, may fix an aggregate sum to be expended for the incom-