

4856

1. LAW LIBRARY ASSOCIATION, COUNTY—MONEYS FROM COURT FINES AND BOND FORFEITURES—ALLOCATED TO BOARD OF TRUSTEES—MAY BE USED ONLY TO PURCHASE LAW BOOKS AND FOR MAINTENANCE OF LAW LIBRARY ASSOCIATION—ALL OTHER FUNDS, PRIVATE CONTRIBUTIONS, GIFTS AND DUES MAY BE USED FOR ANY LIBRARY PURPOSE—DISCRETION, BOARD OF TRUSTEES.
2. MAINTENANCE—SECTION 3375.54 RC, DENOTES UPKEEP—CONTEMPLATES USE OF FINES' FUND TO PAY FOR SERVICES NECESSARY FOR MAINTENANCE OF LAW LIBRARY ASSOCIATION — EXCEPTION, THOSE REQUIRED BY STATUTE TO BE FURNISHED BY COUNTY.
3. FUNDS DERIVED FROM FINES—MAY NOT BE USED TO PAY FOR LIGHT FIXTURES OR BOOK SHELVES—THESE COMMODITIES MUST BE FURNISHED BY COUNTY—PAID WITH COUNTY FUNDS—SECTION 3375.49 RC—OAG 1312, 1949, PAGE 950, OVERRULED IN PART.

## SYLLABUS:

1. Moneys from court fines and bond forfeitures allocated to the board of trustees of a county law library association under the provisions of Sections 3375.50 to 3375.53, Revised Code, may be used only for the purchase of law books and the maintenance of the law library association as provided by Section 3375.54, Revised Code; all other funds derived from private contributions, gifts and dues may be used for any library purpose at the discretion of the board of trustees of such association.

2. The word "maintenance" in Section 3375.54, Revised Code, denotes upkeep and contemplates the use of the fines fund to pay for all services necessary for the maintenance of the law library association, save those required by statute to be furnished by the county.

3. Funds derived from fines may not be used to pay for light fixtures or book shelves in a county law library; such commodities must be furnished by the county and paid for with county funds as provided by Section 3375.49, Revised Code. Opinion No. 1312, Opinions of Attorney General for 1949, page 950, overruled in part.

Columbus, Ohio, February 16, 1955

Hon. Randall Metcalf, Prosecuting Attorney  
Washington County, Marietta, Ohio

Dear Sir:

I have for consideration your request for my opinion as follows:

"Can the Board of Trustees of the Washington County Law Library Association purchase cases or shelves for use in the Washington County Law Library from funds the said Association has on hand as received from fines pursuant to laws of the State of Ohio. The described shelving for law books being to replace obsolete ones on hand and making a necessary addition to book storage facilities now existing plus rearrangement of present shelf and case facilities.

"For your convenience, reference is made to the opinions of your predecessors No. 554 (1951) and No. 1312 (1949). See also 42 O. O. 1."

I have also received a request by the Honorable Hugh I. Troth, Prosecuting Attorney of Ashland County, for an opinion on certain questions closely related to that which you have presented, and for purposes of convenience they may be made the subject of one opinion. Mr. Troth's request is as follows:

"The County Law Library Association is contemplating the purchase of new shelving for the law library. Is it permissible for

the County Law Library Association to expend its funds for the purchase of shelving; and, further, can said purchase be made upon time payments? If so, can the County Law Library Association sell present old shelving and apply the sale price on the purchase price of new shelving?

“Can the County Law Library Association expend funds for light fixtures in the county law library?”

County law libraries are creatures of statute and expenditures of library funds can only be made for purposes specified by the statute. Such libraries derive their chief support from moneys collected by the various courts in fines and penalties, from forfeited deposits and bail bonds, and from recognizances taken for appearances which in amounts specified by statute, must be paid to the board of trustees of the law library association of the particular county. The library fund is further augmented by contributions from private persons and dues for the use of the library.

Section 3375.54, Revised Code, limits the expenditures from the fines fund to the “purchase of law books and in maintenance of such law library association”; on the other hand, bookcases and lights for the library are made the responsibility of the county by Section 3375.49, Revised Code, which provides:

“\* \* \* the board of county commissioners shall provide, at the expense of the county, suitable rooms with sufficient and suitable bookcases, in the county courthouse, or if there are no suitable rooms to be had therein, any other suitable rooms at the county seat, and shall heat and light them. \* \* \*”

The combined effect of these statutory provisions is to limit the funds derived from fines and forfeitures to expenditures for books and maintenance of the library association, and that bookcases, suitable rooms, heat and light must be furnished by the board of county commissioners and paid for out of county funds. In other words, the library fund is composed of two parts: funds derived from fines and allocated to the library under the provisions of Sections 3375.50 to 3375.53, Revised Code; moneys acquired from contributions and gifts by private persons and not being strictly public funds. The former may only be used for the purchase of law books and for maintenance of the law library association; the latter, consisting of private funds, may be used for any library purpose.

The word “maintenance,” in Section 3375.54, Revised Code, has been held to denote upkeep, support, to keep in a state of efficiency, and includes

any services which the statute has not made the responsibility of the county. See Opinion No. 554, Opinions of Attorney General for 1951, p. 298. Thus, in Opinion No. 5914, Opinions of Attorney General for 1943, p. 150, the cost of binding county maps and plats stored in the law library was held not payable out of the fines fund, because they were not law books. Similarly, in Opinion No. 1312, Opinions of the Attorney General for 1949, p. 950, such funds were held unavailable to pay for lighting the library, which the county was required to provide. But an expenditure for additional shelving, not being bookcases in the strict sense which the county was required to furnish, was held payable out of such funds under the maintenance clause of Section 3375.54, Revised Code.

It should also be noted, as hereinbefore stated, that the statutory limitation upon expenditures from funds derived from fines does not apply to funds acquired from private contributors, and which are not accountable to the county auditor under the provisions of Section 3375.56, G. C. 3058, Revised Code. They are, in the language of said Opinion No. 1312, "moneys and income arising wholly independent of the law relating to money received from funds." Accordingly, it was held that such private funds may be used to pay compensation to a librarian in addition to the salary provided by law to be paid by the county, and that such expenditure was entirely within the discretion of the library's board of trustees. See Opinion No. 1243, Opinions of the Attorney General for 1946, p. 701.

These rulings of the Attorney General were the forerunners of the Common Pleas opinion in the case of Van Wert County Library Association v. Stuckey, 42 O. O., 1, construing said Section 3375.49. The court there held that library funds allocated under the provisions of Section 3375.50 to 3375.53 could not be used for the purchase of bookcases, light fixtures, rent or heat, which under Section 3375.49 the county was required to provide. Distinguishing funds allocated to the library under provisions of the statute and those acquired from private contributors which could be used for any library purpose, the court said:

"The law library association may purchase bookcases or light fixtures, expend funds for rent, light and heat, or for additional salary to the law librarian from funds that it may receive from a private source. If the law library association receives private donations, in respect to such monies it is like any other private association and may use such private funds for any proper purpose of the association, even though it is prohibited by law from expending funds received from a public source for such purposes.

\* \* \* In such cases, these funds along with any other donations or dues, are private funds and are not accountable to the county auditor as are the funds received under Sections 3056 to 3056-3, but are accountable only to the law library association. Their use is subject only to the rules of such association and they are not returnable to any subdivision. An account of such funds should be kept separate from funds received from a public source."

The Stuckey case *supra*, was followed in said Opinion No. 554 of this office and pronounced as "correctly stating the law." I find no reason for departing from this ruling.

I cannot agree with the deft distinction made by my predecessor in Opinion No. 1312 for 1949, between bookcases which the county is required to furnish, and book shelves or shelving which he regarded as a "maintenance" expenditure to be borne by the library trustees under the provisions of Section 3375.54, Revised Code. It appears to me that both are one and the same utility, both serve the same purpose. Webster defines a bookcase as a case for books, one having shelves, often with doors. Hence, book shelves or new shelving that may be required in a rearrangement of the law library must be furnished by the county and paid for with county funds as provided by Section 3375.49, and not treated as a "maintenance" expenditure under Section 3375.54, Revised Code. I accordingly overrule in part said Opinion No. 1312 for 1949.

Since the duty of providing bookcases or book shelves devolves upon the county, and when so purchased by the county become the property of the county, the questions whether such shelving may be purchased on time by the library trustees, or the old shelving sold by them to be applied on the purchase price, become immaterial and moot.

Accordingly, in specific answer to the questions contained in the two requests, it is my opinion that:

1. Moneys from court fines and bond forfeitures allocated to the board of trustees of a county law library association under the provisions of Sections 3375.50 to 3375.53, Revised Code, may be used only for the purchase of law books and the maintenance of the law library association as provided by Section 3375.54, Revised Code; all other funds derived from private contributions, gifts and dues may be used for any library purpose at the discretion of the board of trustees of such association.

2. The word "maintenance" in Section 3375.54, Revised Code, denotes upkeep and contemplates the use of the fines fund to pay for all

services necessary for the maintenance of the law library association, save those required by statute to be furnished by the county.

3. Funds derived from fines may not be used to pay for light fixtures or book shelves in a county law library; such commodities must be furnished by the county and paid for with county funds as provided by Section 3375.49, Revised Code. Opinion No. 1312, Opinions of Attorney General for 1949, page 950, overruled in part.

Respectfully,  
C. WILLIAM O'NEILL  
Attorney General