

OPINION NO. 1210

Syllabus:

The maximum compensation of \$500 per year fixed by Section 3375.48, Revised Code, for librarians in counties where not more than one judge of the court of common pleas holds regular terms of court at the same time does not apply to assistant librarians.

To: John D. Sears, Jr., Crawford County Pros. Atty., Bucyrus, Ohio
By: William B. Saxbe, Attorney General, July 13, 1964

You request for my opinion on the following question:

"In a county, such as Crawford County, where we have only one judge of a Court of Common Pleas which holds regular terms of Court at the same time, can the county employ an assistant librarian and pay him a reasonable salary where the regular librarian is drawing a salary of \$500 per year?"

"In other words, may the combined salary of a librarian and an assistant librarian exceed the sum of \$500 per annum or does the \$500 per annum limitation apply both to the librarian and to any assistants?"

Prior to amendment in 1947, Section 3375.48, Revised Code, read 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 board of trustees of such 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 to be paid such librarian shall not exceed the sum of five hundred dollars per annum."

As amended, effective August 30, 1957, such section, with the amendments underscored, is 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 members of the Ohio general assembly, 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 board of trustees of such association of a person to act as librarian thereof, or of a person to act as librarian and not more than two additional persons to act as assistant librarians thereof, shall fix the compensation of such persons, 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 to be paid such librarian shall not exceed the sum of five hundred dollars per annum."

The 1957 amendment provides authority for the appointment of not more than two assistant librarians by the board of trustees of a law library association. In addition, this amendment provides that the judges of the common pleas court in the county wherein the law library association is located shall fix the compensation of these assistant librarians as well as the compensation of the regular librarian. Apparently, the purpose of this amendment was to provide authority for the appointment of assistant librarians where the board of trustees deemed it necessary and to leave the determination of compensation paid the assistants as well as the regular librarian to the discretion of the judges of the common pleas court. The discretion of the judges in fixing the compensation appears to be unlimited except in that situation set out in the last sentence of Section 3375.48, *supra*, where the compensation for such librarian shall not exceed \$500.00 per year. Although this last sentence, which applies to counties where not more than one judge of the common pleas court holds regular court at the same time, limits the compensation of the librarian to \$500.00 per year, there is no specific provision limiting the compensation to be paid to persons who are appointed assistant librarians. The General Assembly having failed, either by design or oversight, to prescribe or limit the compensation to be paid assistant librarians, a limitation can not be supplied by statutory construction. Paragraph eight in the syllabus of State, ex rel. Foster v. Evatt, 144 Ohio St., 65, states that:

"There is no authority under any rule of statutory construction to add to, enlarge, supply, expand, extend or improve the provisions of the statute to meet a situation not provided for."

Insofar as fixing the compensation of assistant librarians is concerned, Section 3375.48, *supra*, draws no distinction among the counties on the basis of the number of judges holding regular terms of court at the same time. Instead this statute merely provides that the compensation of assistant librarians shall be fixed by the judges of the common pleas court of the county in which the law library association is located.

Therefore, in response to your specific question, it is my opinion and you are accordingly advised that the maximum compen-

sation of \$500 per year fixed by Section 3375.48, Revised Code, for librarians in counties where not more than one judge of the court of common pleas holds regular terms of court at the same time does not apply to assistant librarians.