

2719

LIBRARY ASSOCIATION TRUSTEES: NOT UNDER JURISDICTION OF TAXING AUTHORITY OF COUNTY, MUNICIPALITY, TOWNSHIP OR SCHOOL DISTRICT—WITHOUT AUTHORITY TO INITIATE AND PROCURE ORGANIZATION OF COUNTY LIBRARY DISTRICT—SECTION 7643-1a G. C.

SYLLABUS:

The trustees of an association library, not being under the jurisdiction of the taxing authority of a county, municipality, township or school district, are without authority to initiate and procure the organization of a county library district as provided in Section 7643-1a, General Code.

Columbus, Ohio, February 6, 1948

Hon. Charles Varner, Prosecuting Attorney
Putnam County, Ottawa, Ohio

Dear Sir:

I have before me your request for my opinion, reading as follows:

“For a number of years there has been in existence in Putnam County an Association Library, giving free service to all the people of Putnam County. This Association Library is managed by a board of trustees appointed by the Association, and has not been under the control of any authority or trustees appointed by the county commissioners.

The trustees managing this Association Library have just recently passed a resolution forming a county library district under favor of GC 7643-1a. The county library district, by the resolution of the board of trustees of the Association, is to be composed of all of the school districts in Putnam County, including all parochial schools. I have been requested to outline the procedure which should be followed after the filing of the resolution forming the county library district with the board of county commissioners and as the commissioners are now desiring to do everything necessary to complete the transfer of the old library association to the new county library district, I am anxious to receive your opinion as to the steps to be followed after the filing of the resolution with the county commissioners.”

Section 7643-1a, General Code, to which you refer, is a part of a comprehensive act passed by the 97th General Assembly, revising and

recodifying all of the laws relating to public libraries. Sections 7643-1 to 7643-3, General Code, both inclusive, relate to the creation of county library districts.

Two methods are provided for the creation of a county library district. The first is by action of the county commissioners. Section 7643-1, General Code, provides in part, as follows:

“In each county of the state there may be created, in the manner herein provided, a county library district composed of all of the local, exempted village and city school districts in the county which are not within the territorial boundaries of an existing township, school district, municipal, county district or county free public library.”

The procedure is by the adoption of a resolution providing for the submission of the question of creating such library district to the electors of the proposed district. If, upon submission to the electors, a majority of those voting on the question favor it, then such proposed library district shall be created.

The other method is by procedure outlined in Section 7643-1a, General Code, which section reads as follows:

“In any county in which there is not in existence a county library district and in which all of the local, exempted village and city school districts in the county, in which there is not located a main library of a township, municipal, school district, association or county free public library, are receiving approved service from one or more of such libraries, there may be created a county library district in a manner hereinafter provided.

The board or boards of trustees of the library or libraries providing approved library service to the school districts in the county in which there is not located a main library of a township, municipal, school district or county free public library may adopt a resolution requesting the formation of a county library district composed of all of the school districts being served by such library or libraries. Such resolution or resolutions shall set forth the school districts to be included in the proposed county library district and it shall be submitted to the taxing authority of the subdivision or subdivisions having jurisdiction over the library or libraries requesting the formation of such proposed library district.

Within thirty days after the receipt of such resolution by the taxing authority of a subdivision it shall either approve or disapprove the formation of the proposed county library district

as set forth in said resolution. Within ten days after a taxing authority has either approved or disapproved of the formation of a proposed county library district it shall notify the county commissioners of the county in which such proposed library district is to be situated of its action.

In the event that all of the taxing authorities to which such proposal has been submitted approve of the creation of such county library district, such library district shall be deemed to have been created and the county commissioners shall immediately notify the board or boards of library trustees initiating such proposed county library district and the taxing authorities which approve the formation of such county library district that such county library district has been created.

Upon receipt of such notice from the board of county commissioners the board or boards of library trustees initiating such proposed county library district and the taxing authorities which approved the creation of such county library district shall take appropriate action transferring all title to and interest in all property, both real and personal, in the name of the public library under their jurisdiction to the board of trustees of the county library district."

The language of this section is quite involved, and its precise meaning is at first glance far from clear. However, a study of its provisions leads to the conclusion that no one can apply for the formation of such library district except the board of trustees of a library which is under the jurisdiction of a taxing authority. I cannot find anything in this section which authorizes the trustees of a private library association to make such application. It is not under the jurisdiction of any taxing authority and there would therefore be none to which it could make its application or which would have the authority to approve or disapprove the formation of the proposed library district as is contemplated by the statute. It is specifically provided that such application must be filed *with the taxing authority having jurisdiction of the applicant* and further that such taxing authority shall within thirty days after the receipt of the resolution either approve or disapprove it, and within ten days thereafter must notify the county commissioners of their action.

If the proposal is made by more than one library board, it must be submitted to and be approved or disapproved by the taxing authority of each of said applicants and each of said taxing authorities must within ten days, notify the county commissioners of its action. When the county commissioners have received notice of approval from the taxing au-

thorities having jurisdiction of each of these applying boards, then the commissioners are required to notify the board or boards of library trustees who have proposed such library district and the taxing authorities which have jurisdiction over them that such county library district has been created.

Thereupon, it becomes the duty of the board of library trustees who have initiated such proposal and the taxing authorities which have jurisdiction over them and which have approved the proposal, to take appropriate action transferring all title to and interest in all property real and personal, in the name of the library under their jurisdiction to the board of trustees of the county library district. This last named step obviously cannot be taken until the board of trustees of the newly created county library district shall have been appointed as provided in Section 7643-2, General Code. Under the provisions of that section the trustees are to be seven in number, three to be appointed by the common pleas judge or judges, and four by the county commissioners.

It will be observed that the only reference in Section 7643-1a supra, to an "association library" is in the first paragraph, and the language of that paragraph does not confer any authority whatsoever on an association library. It is simply mentioned in a negative phrase. The paragraph in very involved language merely undertakes to say that a county library district may be created when certain conditions exist.

In view of the foregoing, it is my opinion that the trustees of an association library, not being under the jurisdiction of the taxing authority of a county, municipality, township or school district, are without authority to initiate and procure the organization of a county library district as provided in Section 7643-1a, General Code.

Manifestly, the only process by which such district can be established in the situation you present, would be for the county commissioners to take the steps and follow the procedure outlined in Section 7643-1, General Code.

Respectfully,

HUGH S. JENKINS,
Attorney General.