

528.

APPROVAL, BONDS OF TORONTO VILLAGE SCHOOL DISTRICT,
JEFFERSON COUNTY, \$27,000.00.

COLUMBUS, OHIO, May 24, 1927.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio.

529.

APPROVAL, NOTE OF BAKERSVILLE RURAL SCHOOL DISTRICT,
COSHOCKTON COUNTY, \$960.00.

COLUMBUS, OHIO, May 24, 1927.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio.

530.

COUNTY CLERK OF COURTS—WITHOUT AUTHORITY TO PAY TO
TRUSTEES OF A COUNTY LAW LIBRARY ASSOCIATION ANY
PART OF COUNTY'S PORTION OF FINES COLLECTED FOR VIO-
LATION OF CRABBE LAW—DISPOSITION OF SUCH COLLECTIONS.

SYLLABUS:

A clerk of courts is without authority to pay to the trustees of a county law library association, any part of the county's portion of fines imposed and collected by the Common Pleas Court for violations of the Crabbe Law (Sections 6212-13 et seq., General Code) and in accordance with the provisions of Section 6212-19, General Code, such fines must be paid one-half into the state treasury to the credit of the general revenue fund and one-half to the county where the prosecution is held.

COLUMBUS, OHIO, May 24, 1927.

HON. L. B. BROWN, *Prosecuting Attorney, Kenton, Ohio.*

DEAR SIR:—I acknowledge receipt of your letter of recent date reading as follows:

"I would like to have the opinion of your department on a question arising from the following facts:

A person is convicted in the Common Pleas Court for a violation of Section 6212-15 of the General Code, and a fine is imposed in accordance with Section 6212-17. The fine is paid to the Clerk of Courts. Section 6212-19 of the General Code, provides for the apportionment of fines collected under the Crabbe Act.

Question: May the Clerk of Courts pay the portion of a fine apportioned to the county under Section 6212-19 of the General Code, to the Trustees of the County Law Library Association in accordance with Section 3056 of the General Code?"

Section 3056, General Code, to which you refer in your letter, was enacted in its present form on May 10, 1910 (101 v. 295) and reads as follows:

"All fines and penalties assessed and collected by the police court for offenses and misdemeanors prosecuted in the name of the state, except a portion thereof equal to the compensation allowed by the county commissioners to the judges, clerk and prosecuting attorney of such court in state cases shall be retained by the clerk and be paid by him quarterly to the trustees of such law library associations, but the sum so retained and paid by the clerk of said police court to the trustees of such law library association shall in no quarter be less than 15 per cent of the fines and penalties collected in that quarter without deducting the amount of the allowances of the county commissioners to said judges, clerk and prosecutor.

In all counties the fines and penalties assessed and collected by the Common Pleas Court and Probate Court for offenses and misdemeanors prosecuted in the name of the state, shall be retained and paid quarterly by the clerk of such courts to the trustees of such library and association, but the sum so paid from the fines and penalties assessed and collected by the Common Pleas and Probate Courts shall not exceed five hundred per annum. The moneys so paid shall be expended in the purchase of law books and the maintenance of such association."

Section 6212-19 to which you also refer, provides:

"Money arising from fines and forfeited bonds shall be paid one-half into the state treasury credited to the general revenue fund, one-half to the treasury of township, municipality or county where the prosecution is held, according as to whether the officer hearing the case is a township, municipal, or county officer."

This section was passed January 27, 1920 (108 v. Part II, 1184) as a part of what is commonly called the "Crabbe Act."

While the exact question presented in your letter has not been passed upon by this department or by the Supreme Court of Ohio, the reasoning contained in several former opinions of this office and in the opinion of the Supreme Court in the case of *The State ex rel. vs. City of Cleveland*, 115 O. S. —, The Ohio Law Bulletin and Reporter for January 31, 1927, is dispositive here. See Opinions, Attorney General, 1923, page 87; and opinions numbers twelve and eighty-one of 1927, respectively rendered under dates of January 19, 1927, and February 14, 1927.

In the case above cited the City of Cleveland claimed the right to retain the whole of all the fines collected in the year 1921 for offenses against the liquor

laws, such fines having been imposed in cases tried in the criminal division of the Municipal Court of Cleveland. The state claimed one-half of these fines.

The city based its claim upon the Municipal Court Act of Cleveland, Section 1579-41, General Code, a part of the act, reading as follows:

"He shall pay over to the proper parties all moneys received by him as clerk; he shall receive and collect all costs, fines and penalties, and shall pay therefrom annually six hundred dollars in quarterly installments to the treasurer of the city of Cleveland and take proper receipts therefor. Chapter 1 of the General Code, and shall pay the balance thereof quarterly to the treasurer of the city of Cleveland and take proper receipts therefor.
* * * 106 Ohio Laws, 278."

This law was passed, approved and filed in the office of the Secretary of State in May, 1915.

The state relied on the provisions of Section 6212-19, *supra*, passed as above stated in January, 1920.

In the opinion Judge Jones said as follows:

"Does the latter act supersede the earlier one relating to the disposition of fines imposed by the municipal court? In so far as these two statutes relate to the same subject-matter, the disposition of fines, it is evident that the two are in *pari materia* and must be so construed.
* * * *

Construing these two enactments therefore in *pari materia*, we think that the general policy evinced by the Legislature discloses that the provisions of the Municipal Court Act, relating to the disposition of fines for violation of the Crabbe Act, were superseded by the later act of 1920. *City of Cincinnati vs. Connor*, 55 Ohio St., 82, 89, 44 N. E., 582. The Municipal Court Act contains provisions relating to fines generally; the Crabbe Act of 1920 relates to a particular subject, applying especially to fines for violation of that act. * * *

In the case of *City of Cincinnati vs. Holmes*, 56 Ohio St., 104, 46 N. E., 514, Judge Minshall, at page 115 (46 N. E., 516), adverts to the following rule of construction in such cases:

'I know of no rule of construction of statutes of more uniform application than that later or more specific statutes do, as a general rule, supersede former and more general statutes, so far as the new and specific provisions go.'

The general rule upon the subject is stated thus: 'Where there is one statute dealing with a subject in general comprehensive terms and another dealing with a part of the same subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to consistent legislative policy; but to the extent of any necessary repugnancy between them, the special will prevail over the general statute.' 36 Cyc., 1151.

There is still another reason why the Municipal Court Act is superseded by the later act. Section 9 of the enactment of 1920, the repealing section of that act, provides that: 'All provisions of law inconsistent with this act are repealed only to the extent of such inconsistency.'

It is apparent that the provisions of the Municipal Court Act, relating to the disposition of fines in this class of cases, are inconsistent with the later provisions of the act of 1920. They cannot stand together.

One or the other must necessarily fall. They are in conflict with one another in their respective provisions relating to the disposition of these fines. Therefore, under the express provisions of the later act of 1920, the Municipal Court Act is repealed to the extent of such inconsistency, in so far as it relates to the disposition of such fines."

The reasoning of the above opinion is equally applicable here. Section 3056, supra, is found in Ch. 1, Div. IV, Tit. X, entitled "Law Libraries." It contains provisions relating to fines assessed and collected by the Common Pleas Court generally; the Crabbe Act of 1920 has to do with a particular subject, pertaining especially to fines imposed and collected for violations of such act. There being a conflict, the particular provisions of Section 6212-19, which were later adopted, were designed as an exception to the general provisions of Section 3056.

The conclusions herein stated were reached by the Court of Common Pleas of Paulding County, in the unreported case of *The State of Ohio, ex rel. W. H. Snook, et al. as Trustees of the Paulding County Law Library Association vs. Perry Poorman*, as Probate Judge, etc., Case No. 13685, wherein the relators sought by an action in mandamus to compel the payment to them as library trustees of certain portions of Crabbe Law fines.

In passing your attention is directed to the fact that Section 6212-19, supra, was amended by the present legislature to read as follows:

"Sec. 6212-19. Money arising from fines and forfeited bonds shall be paid one-half into the state treasury credited to the general revenue fund and * * * one-half into the county treasury credited to the county general fund.

Provided, however, that in state cases prosecuted in any duly constituted municipal court one-half of the money arising from such fines and forfeited bonds shall be credited to the general fund of the municipality in which such municipal court is established."

The act amending this section was filed in the office of the Secretary of State on May 11th, 1927, and the new section, therefore, becomes effective on and after August 9th, 1927. The amendment of the section, however, in no way affects the holding of this opinion.

For the foregoing reasons and upon the authorities cited, I am of the opinion that a clerk of courts is without authority to pay to the trustees of a county law library association, any part of the county's portion of fines imposed and collected by the Common Pleas Court for violations of the Crabbe Law (Sections 6212-13, et seq., General Code), and that in accordance with the provisions of Section 6212-19, General Code, such fines must be paid one-half into the state treasury to the credit of the general revenue fund and one-half to the county where the prosecution is held.

Respectfully,
EDWARD C. TURNER,
Attorney General.