

Section 7629 of the General Code. To determine whether or not you can proceed under this section, it would, of course, be necessary to consider your entire financial statement.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

81.

FINES ASSESSED AND COLLECTED—MUNICIPAL COURT OF MARION  
—VIOLATIONS OF CRABBE ACT—FINES MUST BE PAID ONE-HALF  
INTO CITY TREASURY AND ONE-HALF INTO STATE TREASURY.

*SYLLABUS:*

*Fines assessed and collected by the municipal court of Marion, for violation of the Crabbe act (Section 6212-13, et seq., General Code) are required by the provisions of Section 6212-19, General Code, to be paid one-half into the city treasury, and one-half into the state treasury.*

COLUMBUS, OHIO, February 14, 1927.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—I am in receipt of your letter of February 7th, 1927, which reads as follows:

"The following language is used in the second last paragraph of Section 38 of the act creating the Marion municipal court, 111 O. L. 359, 'he (clerk) shall on the first day of each month in each year pay to the county treasurer all fines collected for the violation of state laws.'

We fail to find any other reference to the disposal of fines in this act which give rise to the question of whether or not Crabbe act fines assessed and collected in the Marion municipal court should be paid to the county or distributed as provided in Section 6212-19, G. C."

Section 1579-798, General Code, provides for the appointment of a clerk of the municipal court of Marion and enumerates the powers and duties of said officer. In enumerating his duties said statute provides:

"\* \* \* he shall on the first day of each month in each year, pay to the county treasurer all fines collected for the violation of state laws. \* \* \*"

The above quoted section became effective as a law July 21, 1925. Section 6212-19, General Code, 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 the 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."

The above quoted section was passed by the legislature in January, 1920, and was approved and filed in the office of the Secretary of State in February of the same year.

In its legislation of 1920 it is very evident that the General Assembly was engaged in adopting a system of laws controlling a particular subject, to wit: Liquor legislation. The title of that act was as follows: "An act to prohibit the liquor traffic and to provide for the administration and enforcement of such prohibition and repeal certain sections of the General Code."

It is manifest, therefore, that the Crabbe act of 1920 was a general act dealing specifically with the liquor traffic and its enforcement, while the municipal court act, though a special one applying to the city of Marion, dealt with general subjects, such as giving civil and criminal jurisdiction to its municipal court, and providing for the disposition of fines imposed by that court for the violation of all criminal offenses.

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 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.

The general rule upon the subject as quoted in 36 Cyc., page 1151, is as follows:

"Where there is one statute dealing with a subject in general and comprehensive terms, and another dealing with a part of the same subject in a more minute and different way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent legislative policy; but to the extent of any necessary repugnancy between them, the special will prevail over the general statute."

Within the limits of their powers municipalities may legally enact ordinances providing punishment for those unlawfully trafficking in intoxicating liquor. Under such circumstances the right of the state to institute a prosecution for the same offense under the Crabbe act is not abrogated. Moneys arising from prosecutions under city ordinances in such cases will be distributed in the manner provided for ordinance cases and not in accordance with the provisions of the Crabbe act. See Opinions of the Attorney General, Vol. 1, 1921, page 19.

Your attention is also called to Opinion No. 3858, found in the Opinions of the Attorney General for 1922, Vol. II, at page 1077.

It is apparent that the provisions of the Marion municipal court act relating to the disposition of fines in state cases under the "Crabbe Act" are inconsistent with the provisions of the act of 1920. This is, therefore, a case in which the general rule, hereinbefore quoted, should be applied. The two statutes should be read together and harmonized as far as possible with a view to giving effect to a consistent legislative policy. To the extent of any necessary repugnancy between them, the special will prevail over the general statute.

Therefore, it is my opinion that since the Marion municipal court act deals with the subject of disposition of fines in general comprehensive terms and Section 6212-19, General Code, deals with a part of the same subject in a more minute and different way, to the extent of any necessary repugnancy between them, Section 6212-19 will prevail, and that fines assessed and collected by the said municipal court of Marion, for violations of the Crabbe act (Section 6212-13, et seq., of the General Code), are required by the provisions of Section 6212-19, General Code, to be paid one-half into the city treasury, and one-half into the state treasury.

Respectfully,  
EDWARD C. TURNER,  
Attorney General.