

1467.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN
KNOX COUNTY.

COLUMBUS, OHIO, January 29, 1930.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

1468.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN
ALLEN COUNTY.

COLUMBUS, OHIO, January 29, 1930.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

1469.

FEES—RECEIVED BY MARIETTA POLICE JUDGE AND OFFICER IN
STATE AND ORDINANCE CASES—PAID INTO MUNICIPAL TREAS-
URY.

SYLLABUS:

The fees of the police judge and police officer of the police court of the city of Marietta, which are assessed and collected by the clerk of the police court in state cases, as well as ordinance cases, are properly payable to the municipal treasury.

COLUMBUS, OHIO, January 29, 1930.

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

GENTLEMEN:—Acknowledgment is made of the receipt of your recent communication, which reads:

“Section 4270, General Code, governs the disposition of fines and other moneys coming into the hands of the mayor. The section does not control the disposition of fees in state cases (111 O. S., *State ex rel. vs. Nolte*, page 486).

The pertinent part of Section 14693-4, General Code, Section V of the Act establishing a police court in the city of Marietta, 113 O. L., p. 764, reads:

‘All fees in such court shall be the same as before the justice of the peace in like cases. All fees, fines, forfeitures and expenses collected shall

be disposed of and accounted for in the same manner as provided for a mayor under the provisions of Section 4270 of the General Code.'

Section 14693-7, General Code, 113 O. L., p 765, reads:

'The bond and compensation of said judge shall be fixed by council.'

Section 14693-8, General Code, 113 O. L., page 765, reads:

'Such compensation so fixed by council shall be instead of all fees, costs, penalties, percentages, allowances and all other perquisites of whatever kind which such official may collect and receive.'

Question. What disposition shall be made of the fees of the police judge and police officer assessed and collected by the clerk of the police court of the city of Marietta in state cases?"

Your inquiry presents some complicated questions in view of the decisions in the Nolte case, to which you refer. In that case it was definitely decided that Section 4270 of the General Code referred to fees in ordinance cases and did not require fees in state cases to be turned into the municipal treasury by the mayor. Therefore, if in the municipal court act, to which you refer, there was no language used other than that which provides that the fees, fines, forfeitures and expenses collected should be disposed of and accounted for in the manner provided for the mayor under Section 4270, there would be no difficulty for the reason that under such circumstances the mayor would receive such fees and costs as he collects in state cases. However, Section 14693-8, to which you refer, in clear and unambiguous language provides that the compensation of the judge fixed by council shall be instead of all fees, costs, etc. In making such provision the Legislature employed very similar language to that employed in Section 2977 of the General Code, which relates to the salary of county officers being in lieu of all of their fees, which has frequently been construed to prevent such officers from receiving any fees whatever and on the other hand requiring them to pay all of such fees into the county treasury. It therefore is clear that the police judge may not receive the fees in state cases. Inasmuch as Section 14693-4, to which you refer, expressly provides that the fees shall be disposed of in the manner provided for in Section 4270, notwithstanding the decision in the Nolte case, it is my opinion that the fees collected by the court in state cases, as well as ordinance cases, are payable into the municipal treasury. In considering the provisions of the entire act, it is believed to be clear that the legislative intent in said enactment was as hereinbefore stated.

In specific answer to your inquiry, it is my opinion that the fees of the police judge and police officer of the police court of the city of Marietta, which are assessed and collected by the clerk of the police court in state cases, as well as ordinance cases, are properly payable to the municipal treasury.

Respectfully,

GILBERT BETTMAN,

Attorney General.

1470.

APPROVAL, BONDS OF ROLLERSVILLE RURAL SCHOOL DISTRICT,
SANDUSKY COUNTY—\$6,000.00.

COLUMBUS, OHIO, January 29, 1930.

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