

demand against the township. If nothing is found due, then no legal claim exists.

If this rule should work a hardship in any instance, it would not be upon the physicians. They know the law, and are presumed to act in view of its provisions. If, in some cases, it might apply harshly to the sufferer, relief must be had at the hands of the law-making power. It is our duty simply to declare the law as we find it."

Answering your question specifically it is my opinion that by the terms of Section 3480, General Code, a physician or surgeon rendering services to an indigent person, after notice in writing to the township trustees or proper municipal officers, has a claim against the township or municipal corporation wherein such relief is afforded for no greater amount than the trustees or proper officers determine to be just and reasonable; and where such trustees or proper officers have considered a claim, and, acting in good faith, have made an allowance in part or have rejected the same, no action can be maintained against the township or municipal corporation for any amount in excess of their allowance.

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

842.

DISPOSITION OF FINES IMPOSED UNDER THE PROVISIONS OF SECTIONS 471-1 AND 481, GENERAL CODE.

*SYLLABUS:*

*When fines are imposed under the provisions of Sections 471-1 and 481, General Code, such fines shall be paid into the treasury of the county in which such fines were assessed and credited to the county general fund as provided by Section 12378 of the General Code.*

COLUMBUS, OHIO, August 8, 1927.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication requesting my opinion as follows:

"Herewith we are enclosing the letter of Charles M. Smith, Justice of the Peace, at Kenmore, Ohio.

He asks to whom he shall remit the fines imposed in the prosecution of parties refusing or neglecting to secure boat licenses, or for the operation of motor boats and likewise row boats and canoes upon the waters of State Reservoirs. We have endeavored to find some section of the General Code, that would indicate what disposition should be made of these fines.

We believe that it has been the general practice of Justices outside of municipalities to transmit the net proceeds of the fines imposed to the

County Treasurer to the credit of the general revenue funds, but when the Justice Court is held within the limits of municipalities the net proceeds have been transmitted to the treasurer of such a municipality, but we have failed to find any specific statutes that direct that this be done. A hasty review of the titles in the indexes of the General Code fails to disclose any method of disposing of these fines. We therefore respectfully request that you render a decision which we may follow in this case or any cases in the future when these prosecutions are brought."

The letter of the justice of the peace to which you refer reads as follows:

"State patrolman C. E. Rees of Akron, Ohio, has brought some cases before me to-wit (operating and maintaining a boat without first securing a license.) Two of these cases I have imposed a fine, and am at a loss to know what DEPT. to MAIL CHECK to. Mr. REES suggested I write you."

Under the provisions of Section 469, General Code, certain bodies of water and adjacent lands were dedicated and forever set apart for the use of the public as public parks and pleasure resorts. By the provisions of Section 472, General Code, the control and management of these waters and lands is vested in the Superintendent of Public Works. Under the provisions of section 475, General Code, the Superintendent of Public Works is empowered to appoint police patrolmen to preserve order and protect the public at any one of such reservoirs and adjacent state lands.

Section 470, General Code, provides:

"The lakes named in the preceding section (Section 469) shall, at all times, be open to the public as resorts for recreation and pleasure, including hunting, fishing and boating, *but the privileges of hunting and fishing shall be subject to the fish and game laws of the state, and the boating privileges shall be subject to the rules and regulations prescribed by the superintendent of public works.* (Italics the writer's.)

In Section 479, General Code, certain rules are laid down for the guidance of the Superintendent of Public Works in the discharge of his official duties in the control and management of the public parks and resorts which are created by Section 469, General Code. Rule 26 reads:

"Owners of boats of whatever kind, desiring to maintain and operate the same upon the waters of any public park, shall take out a permit entitling them to keep and operate the number and kind of boats described in their application, for which the following fees shall be charged:

Row-boats carrying not more than five persons, one dollar; row-boats carrying more than five persons, fifty cents additional for each person in excess of five; electric, naphtha and steam launches, steamboats and other similar watercraft, one dollar for each person 170 pounds that may be carried thereon with safety.

Sailboats shall be measured thus: Multiply the length of the hull in feet by the greatest beam in feet, and divide the result by 30. Fractions shall be counted to the nearest unit. Final result will be the amount in dollars to be paid for the annual license.

Power boats shall be measured thus: Multiply the length of hull in feet by the greatest beam in feet and divide the result by 15. Fractions shall be counted to the nearest unit. The result will be the amount in dollars to be paid for the annual license."

Section 479-1, General Code, provides the penalty for violation of rule 26, Section 479, supra, shall be a fine of not less than \$10.00 nor more than \$100.00.

Section 481, General Code, provides:

"In carrying out the provisions of the preceding two sections the Superintendent of Public Works shall procure suitable metal plates, numbered consecutively, to be issued annually to persons using boats on the water of such public parks, canals and feeders, for which the fees provided for therein shall be charged. No person shall maintain or operate a boat on the waters of any such public park or pleasure resort, canal or feeder thereto, without first obtaining the permit provided for by such sections and without displaying, at all times, such metal plates, in a conspicuous manner, upon the side or end of his boat, unobscured by paint or other covering. Any person violating any of the provisions of this section shall be fined not less than ten dollars nor more than fifty dollars, and stand committed until such fine and costs are paid. Justices of the peace shall have final jurisdiction within their respective counties in all cases of violation of this section, and neither party shall be entitled to a trial by jury."

From your letter it seems clear that the convictions in question were due to a violation of Rule 26, supra, or Section 481, supra, and that the fines were imposed by the justice of the peace pursuant to either the provisions of Section 479-1 or Section 481, General Code.

The question which you raise involves a consideration of the disposition of these fines imposed and collected by the justice of the peace.

Unlike many special sections of the statutes pertaining to the fines to be imposed in misdemeanor cases no provision is made in either 471-1 or 481, supra, as to the disposition of the fines imposed for the failure to obtain licenses to operate boats upon the waters of the state or to display the number plates as provided in Section 481, supra.

It becomes necessary therefore, to look to the general provisions of law relative to the disposition of fines collected in cases of the nature mentioned by you. This general provision may be found in Section 12378, General Code, which provides:

"Unless otherwise required by law, an officer who collects a fine, shall pay it into the treasury of the county in which such fine was assessed, to the credit of the county general fund within twenty days after the receipt thereof, take the treasurer's duplicate receipts therefor and forthwith deposit one of them with the county auditor."

In view of a statement in your communication it might be well to point out that under the provisions of the foregoing statute it makes no difference whether a fine is imposed by a justice either within or without a municipality, as to the disposition of the same.

Inasmuch as the legislature has not specifically provided as to the disposition of fines assessed under the provisions of Sections 479-1 and 481, supra, it necessarily

follows that the fines so collected must be disposed of as provided in Section 12378, *supra*.

It is therefore my opinion that a justice of the peace in assessing fines for the violation of either Rule 26, of Section 479, General Code, or Section 481, General Code, must pay the fines so imposed and collected into the treasury of the county in which such fines were assessed, to the credit of the county general fund. This must be done within twenty days after the receipt of such fine by the justice of the peace.

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

843.

SHERIFF—LIMITATION PROVIDED FOR IN SECTION 2850, GENERAL CODE, RELATIVE TO "75 CENTS PER DAY OF THREE MEALS EACH" APPLIES ONLY TO THE FEEDING OF PRISONERS—FURNISHING OF FUEL, SOAP, DISINFECTANTS, ETC., ADDITIONAL.

*SYLLABUS:*

*The limitation of Section 2850, General Code, viz., "but at a rate not to exceed seventy-five cents per day of three meals each" applies only to the feeding of prisoners and other persons confined in the jail and the further provision of said section, to the effect that "the sheriff shall furnish, at the expense of the county, to all prisoners or other persons confined in the jail, fuel, soap, disinfectants, bed, clothing, washing and nursing when required, and other necessaries as the court in its rules shall designate" contemplates an expenditure above and beyond this amount.*

COLUMBUS, OHIO, August 9, 1927.

HON. WALTER J. MOUGEY, *Prosecuting Attorney, Wooster, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter of recent date which reads as follows:

"In reference to Section 2850 of the General Code of Ohio as amended by the last General Assembly, relating to the feeding of prisoners in the county jail, beg to ask your opinion as to whether the maximum allowed of seventy-five cents per day is to cover only the feeding of the prisoners, including such extras as washing, soap, heat and other necessaries for keeping them.

This section has caused us some little difficulty here as the County Commissioners have one opinion and the Sheriff's office another, and it is somewhat ambiguous to me as it provides at the beginning that 'the Sheriff shall be allowed by the County Commissioners the actual cost of *keeping and feeding* prisoners or other persons confined in jail, but at a rate not to exceed seventy-five cents per day for three meals each.' \* \* \* 'The sheriff shall furnish, at the expense of the County, to all prisoners or other persons confined in the jail, fuel, soap, disinfectants, bed, clothing, washing and nursing when required, and other necessaries as the court in its rule shall designate'."