

2351.

INTOXICATING LIQUORS—FINES COLLECTED UNDER SECTIONS 13194 TO 13224-3 G. C. ARE NOT DISTRIBUTED UNDER PROVISIONS OF CRABBE ACT—PAYABLE INTO COUNTY TREASURY—EXCEPTION WHERE MUNICIPAL COURT PROVIDED.

Fines properly assessed under the provisions of sections 13194 to 13224-3 of the General Code are not distributed under the provisions of the Crabbe Act and are payable into the county treasury, unless by a special act creating a municipal court it is otherwise provided.

COLUMBUS, OHIO, August 20, 1921.

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

GENTLEMEN:—Acknowledgment is made of your recent request for an opinion upon the following question:

“Are fines assessed under provisions of sections 13194 to 13224-3 G. C. payable into the county treasury in view of the provisions of the Crabbe act and the Miller bill?”

Your question necessarily requires consideration of section 13247 G. C., which provides as follows:

“Fines and forfeited bonds collected under this subdivision of this chapter, except as provided in section thirteen thousand two hundred and thirty-one, if enforced in the county court, shall be paid into the county treasury, and, if enforced in municipal courts, shall be paid into the treasury of the municipal corporation in which the cause was tried. Such funds paid into the treasury of the municipal corporation shall be applied as the council thereof may direct.”

In opinion No. 1845, rendered to your bureau on February 7, 1921, this section was discussed in so far as it applies to fines collected under the provisions of section 13195 G. C. It was held in said opinion:

“While at first hand it might seem that this section (13247) would apply, a closer examination discloses that the section is applicable only to cases arising under the ‘subdivisions’ of the chapter of which said section is a part. It is further apparent that the subdivision referred to is ‘local option.’ It therefore must be concluded that this provision cannot be followed in making disposition of the fines collected under section 13195.”

The history of this law discloses that in all of the enactments in which a similar provision was used, it referred to local option laws. See 95 O. L. 90, 98 O. L. 74, 99 O. L. 37, 99 O. L. 475. However, it will be noted that section 4364-20 R. S., which was the section as enacted in 1902 (95 O. L. 90), was classified as a part of the Dow law, under the chapter relating to intoxicating liquors and cigarettes, and was not a part of the subdivision relating to local option. However, the laws in the enactments of the legislature above cited did not refer to a “subdivision,” but simply referred to fines and forfeited bonds collected under the provisions of “this act,” and the acts, at least the three later ones, mentioned, referred to local option.

However, further consideration discloses that said section 13247 was classified by the codifying commission under the subdivision of "local option," which is a part of chapter 17, the heading of which is "Offenses Relating to Intoxicating Liquors." The codifying commissions further carried into this section the language "fines and forfeited bonds collected under this subdivision of this chapter." The action of the codifying commission definitely defines the subdivision of the act to which said section is to apply and there can be no room for doubt in the interpretation thereof.

The sections of the General Code classified under said subdivision "local option" are 13225 to 13249, inclusive. It therefore follows that section 13247 will not control in the disposition of fines assessed under the provisions of sections 13194 to 13224-3 G. C.

In said opinion No. 1845 heretofore referred to it was pointed out that the distribution of fines collected under section 13195 would not be controlled by the provisions of the Crabbe act. What was said in reference to this section would be true of the other statutes to which you refer, which are a part of the same subdivision. However, in the opinion to which you are referred it was held that the fines collected under section 13195 were payable in the municipal treasury of the city of Massillon because the act creating the municipal court of Massillon specifically required, without qualification, that all fees, costs, fines, etc., should be paid into the said treasury, and it was held that under such circumstances the provisions of section 4599 G. C. were amended by implication.

However, unless there is an exception growing out of the municipal court acts as referred to in this opinion, fines and forfeited bonds collected under the provisions of the General Code to which you refer are payable into the county treasury, and the Crabbe act does not disturb this rule, unless, of course, by implication it should repeal some of the sections referred to.

Respectfully,

JOHN G. PRICE,
Attorney-General.

2352.

BOARD OF EDUCATION—WHERE PRINCIPAL OF BUILDING RECEIVES SALARY AND IN ADDITION THE SUM OF FIVE DOLLARS FOR EACH THOUSAND AGGREGATE DAYS OF ATTENDANCE OF PUPILS OF SUCH BUILDING BY RESOLUTION OF BOARD—HELD SUCH RESOLUTION LEGAL.

Where a board of education by resolution provides that in addition to the salary schedule adopted there shall be paid the sum of \$5.00 to the principal of each building for each and every thousand aggregate days of attendance of the pupils of such building, such additional amount earned by the principal under the resolution of the board of education is a portion of the aggregate salary set by the board of education for the principal, and may be legally paid by the board of education.

COLUMBUS, OHIO, August 20, 1921.

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

GENTLEMEN:—Acknowledgment is made of the receipt of your request for an opinion upon the following statement of facts: