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HAMILTON COUNTY LAW LIBRARY ASSOCIATION—NOT ENTITLED TO ANY PART OF CITY'S SHARE OF FINES COLLECTED IN MUNICIPAL COURT, CINCINNATI—VIOLATIONS OF CRABBE ACT.

SYLLABUS:

*The Hamilton County Law Library Association is not entitled to any part of the city's share of fines collected in the municipal court of Cincinnati for violations of the Crabbe Act.*

COLUMBUS, OHIO, January 19, 1927.

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

GENTLEMEN:—Acknowledgement is made of the receipt of your letter of January 14, 1927, in which you make the following specific inquiry:

“Is the Hamilton County Law Library Association entitled to any part of the city's share of fines collected in the municipal court of Cincinnati for violations of the Crabbe Act?”

A determination of this question involves an examination of the following sections of the General Code, which you have also quoted in your letter:

“Sec. 1558-30. (Cincinnati Municipal Court Act) \* \* \* He (the clerk) 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 all costs and subject to the provisions of Section 3056 of the General Code the balance of such fines and penalties monthly to the treasurer of the city of Cincinnati and take his receipt therefor, but money deposited as security for costs shall be retained by him pending the litigation. \* \* \*”

“Sec. 3056. 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. \* \* \*”

“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, 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 Supreme Court case to which you have also referred is entitled *State ex rel Crabbe vs. City of Cleveland*, Supreme Court No. 19815 (as yet unreported). An examination of the syllabus and opinion in that case convinces me that it is conclusive on the question which you present. The city's contention in the Cleveland case was based upon Section 1579-41 of the General Code, which is analogous to Section 1558-30, above quoted. Practically the only distinction between the two sections is that in the Cleveland act a definite sum of money was to be paid to the trustees of the Law

Library Association, whereas in the Cincinnati act the payment to the trustees of the Law Library Association was to be made in accordance with the terms of Section 3056 of the General Code.

In reaching its conclusion, the Supreme Court in the Cleveland case considered the history of the statutes involved and pointed out that the Cleveland Municipal Court Act was passed prior to the Crabbe Act. It was further pointed out that the Municipal Court Act, though a special one applying to the city of Cleveland, "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." Continuing, the court said:

"Since the legislature in its act of 1920 confined its legislation to the subject of prohibition enforcement only, it is very evident that its purpose and intent was to segregate from the municipal court act such fines as may have been imposed for violation of the Crabbe act. It dealt specifically with such fines and provided that one-half of the moneys arising therefrom should be paid into the state treasury. There is no doubt that the purpose of the later legislation was to exempt these particular fines from the operation of the earlier act. For all other purposes the municipal court act was left intact."

The court also points out that the Crabbe act expressly makes provision for the repeal of all provisions of law inconsistent with that act.

The situation in Cincinnati is no different than that which was presented in the Cleveland case. The general provision of Section 1558-30, as to the collection and disbursement of costs, fines and penalties, is superseded by the later specific enactments of the Crabbe act.

You will note that in the Cleveland case the court was dealing with the state's portion of the money as provided in Section 6212-19. Consequently the case does not definitely determine anything relative to the one-half of the money to be credited to the municipality under said section. The statutory provision is just as definite in regard to the municipal portion as it is with reference to the amount to be paid into the state treasury. I have no difficulty, therefore, in reaching the conclusion that the reasoning of the Supreme Court with reference to the state's portion is equally applicable to the portion of the municipality.

It might be noted that the conclusion of the Supreme Court is confirmatory of prior opinions of this department. Without quoting therefrom, I call attention to the fact that such opinions are found in Opinions of the Attorney General for 1922, p. 1077, and for 1923, p. 87.

You are therefore advised that the Hamilton County Law Library Association is not entitled to any part of the city's share of fines collected in the municipal court of Cincinnati for violations of the Crabbe Act.

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