

submitted, subject to the exceptions and reservations hereinbefore mentioned, from the data submitted it is impossible to advise as to the present status of the title. However, the foregoing will indicate some of the matters which it will be necessary to have cleared up before any proper title could be accepted by the State.

In the event you should decide to purchase this property, it is suggested that the proper abstract showing the status of the title be submitted, in view of the complicated questions that may arise in connection with the title to this particular piece of property.

There are being returned herewith the instruments and data which you submitted.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4308.

APPROVAL, BONDS OF BRIDGEPORT EXEMPTED VILLAGE SCHOOL DISTRICT, BELMONT COUNTY, OHIO, \$7,415.94.

COLUMBUS, OHIO, May 31, 1935.

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

4309.

NILES—MUNICIPAL COURT—DISPOSITION OF FINES WHERE PERSONS ARRESTED BY STATE HIGHWAY PATROLMEN.

SYLLABUS:

All fines collected from, or moneys arising from bonds forfeited by persons apprehended or arrested by state highway patrolmen and tried before the Municipal Court of Niles should be paid one-half into the state treasury and one-half into the city treasury of Niles.

COLUMBUS, OHIO, June 1, 1935.

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

GENTLEMEN:—This will acknowledge receipt of your request for my opinion which reads as follows:

“We find it necessary to ask your advice as to the proper disposition of fines and forfeited bonds collected in the Municipal Court at Niles, in cases where the defendants were arrested by state highway patrolmen.

Section 1181-5 G. C., reads in part as follows:

“All fines collected from, or moneys arising from bonds forfeited by persons apprehended or arrested by state highway patrolmen shall be

paid one-half into the state treasury and one-half into the treasury of the incorporated city or village where such cases may be prosecuted."

The Municipal Court of the City of Niles is established in accordance with the provisions of sections 1579-1274 to 1579-1319 of the General Code, and the first of the sections named above reads as follows:

"There shall be and hereby is established a court of record in and for the City of Niles, the Village of McDonald and the Township of Weathersfield in the County of Trumbull which shall be styled 'The Municipal Court of Niles' and designated in this act and amendments hereto as the 'municipal court.' "

Relative to the disposition of fines and costs by the clerk of the court, section 1579-1309 reads as follows:

" * * * shall collect all fines, costs and penalties, receive all moneys payable to the office and pay out the same to persons entitled thereto and on the first business day of each month pay to the treasurer of the City of Niles all moneys collected for fees and costs, which shall be credited to the municipal court fund and all fines collected for violation of city ordinances, which shall be credited to the general fund, and pay as provided by law all fines collected for the violation of state laws; * * *"

The only former opinion we have available on the provisions of section 1181-5 G. C., is No. 2762, dated May 29, 1934.

We are enclosing herewith a statement received from the judge of the court and kindly ask that you advise us, either by letter or opinion, what disposition should be made of one-half of the fines and costs collected in said cases by the municipal court at Niles."

Section 1181-5, General Code, referred to in your letter in so far as it pertains to your inquiry reads in part as follows:

"All fines collected from, or moneys arising from bonds forfeited by persons apprehended or arrested by state highway patrolmen shall be paid one-half into the state treasury and one-half into the treasury of the incorporated city or village where such case may be prosecuted. Provided, however, if such prosecution is in a trial court outside of an incorporated city or village such money shall be paid one-half into the county treasury. Such money so paid into the state treasury shall be credited to the 'state highway maintenance and repair fund' and such money so paid into the county, city or village treasury shall be deposited to the same fund and expended in the same manner as is the revenue received from the registration of motor vehicles. * * *"

This section was enacted in 115 O. L. 95, and as can be readily seen is an exception to the general principles of law relative to the disposition of fines. It is a specific and later enactment dealing with the disposition of fines and forfeited bonds arising out of arrests made by state highway patrolmen. The legislature, in allowing the state one-half of such fines and forfeited bonds, no doubt felt that the state should in some measure be compensated for the furnishing of such highway protection.

In your request you quote Section 1579-1309, General Code, which deals in general

with the disposition of fines collected in the Municipal Court of Niles. As to any conflict between these two sections it is apparent that Section 1181-5, General Code, since it is a later and special enactment, would be controlling.

You inquire as to the disposition of the one-half of the fines that are collected in the Municipal Court of Niles and which is not paid into the state treasury. In the memorandum which you enclose it appears that in some cases the arrests took place within the city limits of Niles, while in other cases the arrests took place outside the corporate limits of a municipality. In an opinion to be found in Opinions of the Attorney General for 1934, Vol. I, page 794, it was held as disclosed by the first branch of the syllabus:

"1. All fines collected from, or moneys arising from, bonds forfeited by persons apprehended or arrested by state highway patrolmen and tried before a justice of the peace of a township which extends beyond the territorial limits of a city or incorporated village should be paid one-half into the state treasury and one-half into the county treasury, regardless of the fact that the trial is held at the office of the justice of the peace, whose office is located within the geographical limits of a city or incorporated village within the township."

In this opinion the question arose as to the disposition of such fines where the same were collected by a justice of the peace who, for purposes of convenience, held court within the territorial limits of a municipality. In construing Section 1181-5, General Code, *supra*, I held that the words, "if such prosecution is in a trial court", meant to designate not the particular place where the trial was held but rather the particular type of court that is conducting the trial.

In the present inquiry the cases are tried before the Municipal Court of Niles. The jurisdiction of such Court embraces the City of Niles, the Village of McDonald and the Township of Weathersfield, all lying within Trumbull County. The compensation of the Judge of this Municipal Court is largely paid by the City of Niles, but he is also compensated by the Village of McDonald, the Township of Weathersfield and Trumbull County. See Section 1579-1291, General Code. In view of these factors it might well be argued that the one-half of the fines and forfeited bonds should be distributed over the city, village and county which comprise the territorial limits of the Municipal Court of Niles. Such a conclusion would, of course, lead to an endless amount of confusion. It would seem that the Municipal Court of Niles is principally intended for the citizens of Niles. The trial of these cases is conducted within the city limits of Niles and while this is not conclusive as pointed out in the 1934 opinion *supra*, nevertheless it would appear that the legislature in enacting Section 1181-5, General Code, intended such fines to be paid one-half into the city treasury of Niles.

In view of the above and without further extending this discussion, it is my opinion in specific answer to your question that all fines collected from, or moneys arising from bonds forfeited by persons apprehended or arrested by state highway patrolmen and tried before the Municipal Court of Niles should be paid one-half into the state treasury and one-half into the city treasury of Niles.

Respectfully,
JOHN W. BRICKER,
Attorney General.