

exempting these properties from taxation under the authority of the sections of the General Code above referred to

Inasmuch as the conveyance of this property by The Pymatuning Land Company to the state of Ohio for the purposes indicated is in fact a gift of this property to the State for said purposes, no contract encumbrance record or Controlling Board certificate is required as a condition precedent to the right and authority of the Conservation Council to accept this conveyance on behalf of the state of Ohio.

Upon the considerations above noted, the title of The Pymatuning Land Company to these tracts of land is approved and the abstract of title to the same is herewith returned to the end that the same, together with the deed executed by The Pymatuning Land Company conveying this property to the State, may on acceptance of such deed by the Conservation Council, be filed with the Auditor of State in the manner provided by law.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

3630.

MUNICIPAL COURT—FINES IN STATE CASES PAYABLE AS REQUIRED IN SECTION 3056, GENERAL CODE.

SYLLABUS:

The fines collected in state cases in the Municipal Court of Springfield should be paid over in accordance with the provisions of Section 3056, General Code, and the excess over six thousand dollars per calendar year should be paid to the treasurer of the City of Springfield, except as modified by later specific enactments relative to the distribution of fines and bond forfeitures.

COLUMBUS, OHIO, December 15, 1934.

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

GENTLEMEN:—I am in receipt of your communication which reads as follows:

“The question has arisen as to whether fines collected in state cases in the Municipal Court of Springfield should be paid to the county or the city.

In opinion of your predecessor, No. 1775, found on page 523 of the 1928 Opinions, it was held as follows:

‘In state cases instituted in the municipal court of Akron the costs and fines collected by the terms of sections 1579-536 and 4599, General Code, are payable to the treasurer of the County of Summit by the clerk of the municipal court.’

This opinion was based upon the wording of section 1579-536 G. C., the pertinent part of which reads as follows:

'He (the clerk) shall pay over to the proper parties all moneys received by him as clerk, and shall receive and collect all costs, fees, fines and penalties, and shall pay the same monthly into the treasury of the City of Akron and take a receipt therefor, *except as otherwise provided by law*, and except that the provisions of section 3056 of the General Code respecting payment to the trustees of the law library association of fines and penalties assessed and collected by police courts for offenses and misdemeanors prosecuted in the name of the state shall be applicable to all fines and penalties assessed and collected by the municipal court in like cases, * * *.'

The corresponding section of the Springfield Municipal Court Act as contained in section 1579-744 of the General Code, reads practically the same as the above, except the words italicized, '*except as otherwise provided by law*' are not included therein.

Question. Are fines collected in state cases by the clerk of the Municipal Court of the City of Springfield payable to the city treasurer or into the treasury of Clark County?"

The Act creating the Municipal Court of Springfield became effective on July 21, 1925. Section 1579-744, General Code, relative to the powers and duties of the Clerk of Courts of the Municipal Court of Springfield, in so far as pertinent, provides:

"* * * He shall pay over to the proper parties all moneys received by him as clerk; he shall receive and collect all costs, fines and penalties; he shall pay the same monthly to the treasurer of the city of Springfield and take his receipt therefor, except in state cases he shall pay over all cash and fines in accordance with the provisions of section 3056 of the General Code; but money deposited as security for costs shall be retained by him pending the litigation; he shall keep a record showing all receipts and disbursements, which shall be open for public inspection at all times, and shall monthly make to the city auditor a report of all receipts and disbursements."

Section 3056, General Code, referred to in Section 1579-744, quoted in part supra, in so far as pertinent provides:

"All fines and penalties assessed and collected by a municipal or police court 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 judge of the municipal court presiding in police court, clerk and prosecuting attorney of such court in state cases shall be retained by the clerk and be paid by him monthly to the trustees of such law library association, but the sum so retained and paid by the clerk of said municipal or police court to the trustees of such law library association shall in no month be less than 15 per cent of the fines and penalties collected in that month without deducting the amount of the allowances of the county commissioners to said judges, clerk and prosecutor. * * *

* * * and provided further that the total amount paid hereunder in any one calendar year by the clerk of any municipal or police court to

the trustees of such library association shall in no event exceed six thousand dollars per annum; and when that amount shall have been so paid to the trustees of such law library association, in accordance with the foregoing provisions of this section, when no further payment shall be required hereunder, in that calendar year, from the clerk of such court."

In the opinion you mention in your request, to be found in Opinions of the Attorney General for 1928, Vol. I, page 523 the disposition of the fees under the Akron Municipal Court Act was considered. The provisions of the Akron Act and the Springfield Act relative to paying the fees into the municipal treasury are practically the same, with the exception that the Akron Act after requiring payment into the treasury of the city adds the following qualification: "except as otherwise provided for by law." The first branch of the syllabus of that opinion is as follows:

"1. In state cases instituted in the Municipal Court of Akron the costs and fines collected, by the terms of sections 1579-536 and 4599, General Code, are payable to the treasury of the County of Summit by the clerk of the Municipal Court."

Section 4599, General Code, provides:

"On the first Monday of each month, he (the police court clerk) shall make, under oath, to the city auditor, a report of all fines, penalties, fees, and costs imposed by the court in city cases, showing in what cases they have been paid, and in what cases they remain unpaid, and, at the same time, he shall make a like report to the county auditor as to state cases. He shall immediately pay into the city and county treasuries, respectively, the amount then collected, or which may have come into his hands, from all sources, during the preceding month." (Words in parenthesis mine.)

With the exception above referred to as emphasized in that opinion, it is also to be noted that the Akron Act provided that the Clerk should succeed to all powers and duties of a police court clerk, which clerk is guided by the provisions of Section 4599, General Code, quoted supra. However, in the Springfield Act, it is provided that all fees, fines, etc., shall be paid into the municipal treasury without any qualifications whatever except that in state cases the clerk shall pay over all cash and fines in accordance with the provisions of Section 3056 of the General Code, which exception has to do with the allowance to law libraries from fines of municipal courts, police courts, and common pleas courts. It is believed that consideration of the 1928 opinion will disclose that the opposite conclusion would have been reached had it not been for the qualifying provision, "except as otherwise provided by law," above referred to. Such distinction between a municipal court act containing the provision "except as otherwise provided by law" relative to the disposition by the clerk of a municipal court as to costs and fines has been drawn in a former opinion of this office, to be found in Opinions of the Attorney General for 1921, Vol. I, page 104 at page 110.

However, it must be noted that the Act creating the Municipal Court of Springfield was effective in 1925 and that provisions of later acts, for example Section 1181-5 of the General Code, providing for the distribution of fines col-

lected and all moneys arising from bond forfeitures from persons apprehended or arrested by the State Highway Patrol, one-half to be paid to the state treasurer and one-half to the treasurer of the city or village where such case is prosecuted, modifies the provisions of Section 1579-744, inasmuch as the later provisions would be inconsistent with the Municipal Court Act in question, and as such enactments are later in point of time, under established rules of statutory construction, the former statute would yield to this later enactment.

Specifically answering your inquiry, it is my opinion that the fines collected in state cases in the Municipal Court of Springfield should be paid over in accordance with the provisions of section 3056, General Code, and the excess over six thousand dollars per calendar year should be paid to the treasurer of the City of Springfield, except as modified by later specific enactments relative to the distribution of fines and bond forfeitures such as Section 1181-5, General Code.

Respectfully,

JOHN W. BRICKER,
Attorney General.

3631.

WAR VETERAN—PROCEEDS POLICY OF WAR RISK INSURANCE
SUBJECT TO PROPERTY TAXATION WHEN—ADJUSTED SERVICE
CERTIFICATE EXEMPTED WHEN.

SYLLABUS:

1. *The proceeds of a policy of War Risk Insurance issued to a World War veteran in his lifetime, and paid to the administrator of the estate of such World War veteran after his death, are subject to property taxation in this State.*
2. *The proceeds of an Adjusted Service Certificate issued on the application of a World War veteran in his lifetime and paid to the administrator of his estate after his death, are exempt from property taxation in this State under the provisions of section 618, chapter 11, Title 38, United States Code.*

COLUMBUS, OHIO, December 15, 1934.

The Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—As previously acknowledged, I am in receipt of a communication from you in which my opinion is asked on certain questions stated therein as follows:

“1. Are funds, in the hands of an administrator of an estate of a deceased World War Veteran, received as proceeds from a U. S. Government insurance policy, and on tax listing day kept partly in a safety deposit box and partly on deposit in a financial institution, subject to taxation.

2. Are funds, in the hands of an administrator of an estate of a deceased World War Veteran, received from the Veterans Bureau in the form of an adjusted compensation award under the World War