128.

DISPOSITION OF MONEY COLLECTED FROM FINES AND FORFEITED BONDS UNDER LIQUOR LAW VIOLATIONS—HOW GOVERNED—COUNTY COMMISSIONERS MAY NOT DEDUCT COST OF KEEP OF PRISONERS FROM FINES ON FORFEITED BONDS.

SYLLABUS:

Moneys arising from fines and forfeited bonds in liquor violations shall be paid, one-half into the state treasury and one-half to the treasury of the township, municipality, or county, dependent upon whether the officer hearing the case is a township, municipal or county officer.

County commissioners may not deduct from this money the cost of feeding and keeping a prisoner, this being provided for by general law.

COLUMBUS, OHIO, March 8, 1923.

HON. EARL C. KRUEGER, *Prosecuting Attorney, Sandusky, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for an opinion as follows:

> "I have been requested by the county commissioners of this county to ask you for your opinion regarding the right of the county commissioners to deduct and turn over to the county the cost of feeding and keeping a prisoner for violation of liquor law during the period he was in jail, from any fines collected and assessed against such prisoner and remit the balance of such fine to the court assessing such fine, especially when the court assessing such fine is a magistrate or municipal court and the county does not share in the fine."

The question arises whether the cost of keeping and feeding a prisoner in the county jail may be deducted from the fine collected before remitting said fine.

It will be observed that section 2419 G. C. requires the county commissioners to provide a jail as well as other buildings mentioned.

Again, section 4559 G. C. provides that the court or mayor may commit to jail, workhouse or prison until fines and costs are paid, or secured to be paid, or until offender is otherwise legally discharged.

Also, section 2850 G. C. makes general provision for sheriff to be allowed by county commissioners not less than forty-five cents nor more than seventy-five cents per day for keeping and feeding prisoners in jail.

The general statute covering the disposition of money received as a fine is section 12378 G. C., which provides:

> "Unless otherwise required by law, an officer who collects a fine, shall pay it into the treasury of the county in which said fine was assessed to the credit of the general fund."

The above statute, it will be observed, is of a general nature and is intended to cover all those fines collected when no specific procedure is outlined in the statute itself for the disposition of the fines when collected.

Coming now to section 6212-19 G C., which is directly involved in your inquiry, and which provides as follows:

"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."

It will be seen that the above statutory provision is specific in its nature relative to the disposition of fines and forfeitures of bonds when collected. These provisions being specific and mandatory will take precedence over a statute of a general nature, and especially is this true since it is a later statutory enactment.

Specifically referring to your inquiry will say I find no authority for the county commissioners, nor any one else, to deduct and turn over to the county the cost of feeding and keeping a prisoner for violation of liquor law during his confinement in jail from any fines collected.

On the contrary, it is my opinion that the legislature has clearly and plainly provided how the fines and forfeiture shall be paid, namely, one-half into the state treasury, credited to the general revenue fund, and one-half to the treasury of the township, municipality, or county where the prosecution is held, depending upon whether the officer hearing the case is a township, municipal or county officer.

Respectfully,
C. C. CRABBE,
Attorney General.

129.

WOMAN CANNOT BE CONFINED IN COUNTY JAIL FOR PERIOD LONGER THAN THIRTY DAYS—WHEN JUDGMENT IS VOIDABLE AND NOT VOID—IN CASE OF VOIDABLE JUDGMENT ONLY AND UPON RELEASE OF PRISONER BY HABEAS CORPUS ORIGINAL COURT MAY REASSUME JURISDICTION AND CORRECT OR MODIFY ITS JUDGMENT AND CARRY SAME INTO EFFECT.

SYLLABUS:

Under section 2148-7 G. C. a justice of the peace cannot order a woman convicted of a misdemeanor imprisoned in a county jail, if the confinement therein is for a period longer than thirty days. Where such prohibited imprisonment has been ordered and a release obtained on habeas corpus, and the original court having rendered a voidable, and not void judgment, it may reassume jurisdiction and modify or correct its judment as to the place of imprisonment and proceed to carry the same into effect.

COLUMBUS, OHIO, March 8, 1923.

HON. ALBERT H. SCHARRER, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—Acknowledgment is made of your letter requesting the opinion of this department as follows:

"I should like to ask your opinion as to what advice to give to a magistrate who sentenced a woman to the jail of Montgomery County, Ohio, in default of payment of a fine of One Thousand ($1,000.00) Dollars and costs for violation of the Crabbe Act, to which said woman pleaded guilty.