

**Court—County Treasurer — Fines — Imprisonment —
School Fund.**

All fines collected by a summary court are to be paid forthwith to the County Treasurer of the county in which the fine is imposed and distributed for the support of the common schools.

Where such fines are not paid the summary court has power to impose a sentence of confinement.

Col. Chas. L. Sheridan,
Adjutant General,
Helena, Montana.

My dear Colonel Sheridan:

You have requested an opinion of this office as to what disposition should be made of fines imposed under Section 1388, Revised Codes of 1921, and as to how these fines should be collected, and, in case of failure of men convicted by Summary Court to pay said fines, what action should be taken to enforce their payment.

Section 1388, Revised Codes of 1921, provides:

"The commanding officer of each garrison, fort, post, or other place, regiment, or corps, detached battalion, company, or other detachment of the national guard of Montana, may appoint for such place of command a Summary Court to consist of one officer, who shall have power to administer oaths and try enlisted men of such place or command for breaches of discipline and violations of laws governing such organizations; and said court, when satisfied of the guilt of such soldier, may impose fines not exceeding twenty-five dollars for any single offense, may sentence non-commissioned officers to reduction to the ranks, and may sentence to forfeiture of pay and allowances. The proceedings of such court shall be informal, and the minutes thereof shall be the same as prescribed for similar courts of the regular army of the United States."

Section 1389, Revised Codes of 1921, provides for a "sentence to confinement in lieu of fines authorized to be imposed; provided, that such sentence of confinement shall not exceed one day for each dollar of fine authorized."

I find no provision of statute directing the disposition of fines collected under Section 1388. However, Section 1202 provides:

"For the further support of the common schools, there shall also be set apart by the County Treasurer all moneys paid into the county treasury arising from all fines or violations of law, unless otherwise specified by law. Such money shall be forthwith paid into the county treasury by the officer receiving the same, and be added to the yearly school fund raised by taxing each county and dividing in the same manner."

It is, therefore, my opinion that all fines collected by the Summary Court, provided for by Section 1388, Revised Codes of 1921, should be paid forthwith to the County Treasurer of the county in which the fine is imposed, and distributed for the support of the common schools, as provided for by Section 1202, and that in case the

fine is not paid the Summary Court has power to impose a sentence of confinement, provided that such sentence shall not exceed one day for each dollar of the fine imposed.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.