ADJUTANT GENERAL: Military fines—what disposition to be made of; duty of officer receiving fine; duty of county treasurer.

September 28, 1933.

Hon. Elmer F. Straub,
The Adjutant General,
Indianapolis, Indiana.

Honorable Sir:
I have before me your request for an official opinion and presenting the following question:

"In the case of a fine being imposed on a trooper for an infraction of rules, what disposition is to be made of the fine money?"

The collection of fines of officers and enlisted men in the National Guard for violations of their respective duties is authorized by the Militia Act of March 7, 1923, page 393 of the Acts of 1923 (3 Burns Annotated Indiana Statutes, 1926 Revision, section 9941-9950).

Section 17 of the Militia Act (3 Burns Annotated Indiana Statutes, 1926 Revision, section 9950) prescribes:

"Payment of Fines Imposed. Fines may be paid to a court or to an officer executing its process. The amount of any such fine may be noted upon any roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due him, until said fine is liquidated. Any sum so deducted from any state pay or allowance shall be turned into the court which imposed the fine and shall be paid over by the officer receiving the same in like manner as provided for other fines and moneys collected under a sentence of a summary court-martial. Any sum so deducted from any United States pay or allowance shall be disposed of as authorized by the laws of the United States and the regulations issued thereunder. A fine or penalty imposed by a military court upon an enlisted man shall be paid by the officer collecting the same into the treasury of the county within which the organization, detachment or corps of which the person paying the same is a member or to which he is detailed or attached is located, within thirty days after
the collection thereof and shall form a part of and be credited to the military fund of such organization, corps or detachment. The treasurer of such county shall thereupon report the amount thereof, designating the organization to which it belongs, to the adjutant-general of the state. The amount of fines or penalties so collected from any commissioned officer shall be paid by the officer collecting the same, to the adjutant-general of the state, who shall apply the same to the use of the national guards.”

From the provision of the statute, I find that within thirty days after the collection of a fine from an enlisted man, the fine money is required to be paid by the officer receiving the same to the county treasurer of the county “within which the organization, detachment, or corps of which the person paying the same is a member or to which he is detailed or attached is located.”

The county treasurer shall then credit the moneys to the military fund of such organization, corps or detachment. Subsequently, within a reasonable time, no exact time being specifically provided for by the statute, the treasurer shall report the amount so deposited with him to the adjutant general, and shall indicate in such report the organization, corps, or detachment to which such fine money belongs. The money is then to be held by the treasurer of that county to be drawn for the use of such organization, corps or detachment. Such fine moneys collected from enlisted men are not to be paid to the adjutant general.

The rule differs, where the fine has been imposed upon a commissioned officer. The amount of fines or penalties collected from a commissioned officer are to be paid by the court or officer collecting the fine directly to the adjutant general, who shall apply them to the use of the National Guard of the State, to be expended in the same manner as other military funds are expended.