Thus, the next question to be considered is whether a violation of Act 300, P.A. 1949, supra, is a breach of the state penal laws. A violation of that act is a misdemeanor as evidenced by the following language from Section 724(c) of Act 300, P.A. 1949, as amended, supra:

> "(c) Any owner of any vehicle as defined in this act, or any lessee * * * who * * * violates the provisions of section 722 *is guilty of a misdemeanor* * * *." (Emphasis supplied)

In Michigan misdemeanors are included with felonies in the definition of crimes, *People v. Goldman,* 221 Mich. 646 (1923). It is evident that a breach of the state penal law is equivalent to committing a crime even though the punishment inflicted is pecuniary if the statute violated is a general law passed by the state legislature, *Cary v. Schmeltz,* 125 S.W. 532 (Mo. 1910); *Wayne County v. Detroit,* 17 Mich. 390 (1868) and *People ex rel. Wayne County Treasurer v. Detroit City Controller,* 18 Mich. 445 (1869).

In *People v. Crucible Steel Co. of America,* 151 Mich. 618 (1908) at 619, 620, the Court said:

> "We understand a penal statute to be a statute imposing a penalty for doing that which the statute prohibits or for omitting to do that which the statute requires, * * *."

Thus, in view of the language from Section 9, Article VIII of the 1963 Michigan Constitution, the quoted portion of Act 236, P.A. 1961, *People v. Goldman,* supra, and *Cary v. Schmeltz,* supra, it is my opinion that the fines resulting from a misdemeanor conviction of violating that portion of the Motor Vehicle Code limiting the weight for certain motor vehicles, must be credited to the county treasurer for the support of public libraries in accordance with law.

FRANK J. KELLEY,
Attorney General.

680124.1

CITIES: Home Rule—Public Employment.

Charter providing for single uniform pay plan for all classified employees of city, placing various classes of employees into various classification levels and providing equal pay for all in each level, is not *per se* violation of statute designating collective bargaining representative selected by majority of employees in unit "appropriate for such purposes."

No. 4619 January 24, 1968.

Honorable Dale E. Kildee
State Representative
The Capitol
Lansing, Michigan

You have asked the following question:

> Where a home rule city charter provides for a single uniform pay plan for all classified employees of the city, which charter places various

> classifications of employees of the city into various occupational levels, and which states that all employees in the same occupational level shall receive the same compensation for the same normal work week except for longevity benefits, is such a city charter in conflict with the public employment relations act (Act 336, P.A. 1947, as amended[1])

First I must observe that it is not feasible to answer your question as stated, because it combines a statement of fact concerning the provisions of the charter referred to, with a postulation of a potential future fact situation thereunder which may or may not come about. Then the question assumes an answer by asserting that such charter provision would effectively prevent recognition of a certified bargaining representative were certain facts to occur. No facts supporting such premise are before me.

Act 336, P.A. 1947, as amended, is an act prohibiting strikes by certain public employees and providing for the mediation of grievances of such public employees. The statute is found at M.S.A. 1960 Rev. Vol., Cum. Supp., and Cur. Mat. § 17.455(1) et seq. Section 11 of the statute provides in pertinent part as follows:

> "Representatives designated or selected for purposes of collective bargaining by the majority of the public employees in a unit *appropriate for such purposes,* shall be the exclusive representatives of all the public employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment, and shall be so recognized by the public employer: . . ." [M.S.A. 1965 Cum. Supp. § 17.455(11)] (Emphasis supplied).

Section 15 provides in pertinent part as follows:

> "A public employer shall bargain collectively with the representatives of its employees as defined in section 11 and is authorized to make and enter into collective bargaining agreements with such representatives . . . ." [M.S.A. 1965 Cum. Supp. §17.455(15)].

Section 264(a) of the Charter of the City of Flint requires that all city employees of the same class be paid the same rates. Section 236(a) of the said charter provides that the city civil service commission shall classify all offices and positions of employment ". . . showing for each class established the class title, the duties performed and the responsibilities involved in each class, . . ."

The charter and the statute would conflict only if the appropriate bargaining unit and the civil service classification did not coincide and it were decided by the labor mediation board that the classification established by the civil service commission did not establish the appropriateness of the unit. [See Section 9e of Act 176, P.A. 1939, which was last amended

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[1] MSA 1960 Rev. Vol., 1965 Cum. Supp., and Cur. Mat. § 17.455(1) et seq. when said charter provisions effectively prevent a certified bargaining representative of a recognized bargaining unit of city employees from bargaining with the city as to wages and hours for the unit because many city employees who are not in the bargaining unit are in the same occupational level as the employees of the bargaining unit?

by Act 282, P.A. 1965, M.S.A. 1960 Rev. Vol. § 17.454(10.4)]. In the absence of such adverse decision, we are not free to conclude that the classification established by the civil service commission is not the determining factor in defining the appropriate unit for bargaining.

Were there to be such a conflict, the statute would control since the provisions of relevant state statutes amend all conflicting city charter provisions. See, for example, *City of Hazel Park v. Municipal Finance Commission,* 317 Mich. 582 (1947); *Hall v. Ira Township,* 348 Mich. 402 (1957); *Brimmer v. Village of Elk Rapids,* 365 Mich. 6 (1961).

Public employees dissatisfied with the appropriateness of the collective bargaining unit may petition the labor mediation board in accordance with Section 12 of Act 336, P.A. 1947, as amended, *supra,* to determine an appropriate unit for the purposes of collective bargaining.

In the event of a petition filed with the labor mediation board, if the civil service classification and the bargaining unit established by the labor mediation board coincide, there will be no conflict.

If, however, the employees wish to assert a conflict and thus to challenge the right of the civil service commission to establish classifications for wage levels and other purposes under the city charter, a means for making such challenge has been suggested hereinabove.

FRANK J. KELLEY,
Attorney General.

680206.1

SOCIAL SERVICES, DEPARTMENT OF:
STATE EMPLOYEES:
COUNTIES:
WELFARE:

Status of merged county departments of social services and bureaus of social aid under Michigan social welfare act as modified by Act 401, P.A. 1965, providing for mandatory merger of county and state welfare functions discussed and construed with reference to various state-county relationships affected by the merger act.

No. 4607 February 6, 1968.

Honorable James N. Callahan
State Representative
The Capitol
Lansing, Michigan

You ask for clarification of several questions related to the administrative responsibility for operation of the merged welfare department resulting from mandatory merger of the Genesee County department of social services and the Genesee County bureau of social aid required by the provisions of Act 401, P.A. 1965, which amended various sections of the Michigan social welfare act (Act 280, P.A. 1939 as amended, being C.L. '48 and C.L.S. 1961 § 400.1 et seq; M.S.A. 1960 Rev. Vol., 1965 Cum. Supp. and Cur. Mat. § 16.401 et seq).