

1447.

CONSERVATION COUNCIL MAY EXPEND MONEY TO PRINT EDUCATIONAL LEAFLETS, ETC., RELATING TO FISHING AND GAME PROTECTION, ETC. (O. A. G., 1935, VOL. I, NO. 4281, P. 600, NO LONGER APPLICABLE).

*SYLLABUS:*

*By virtue of the provisions of Section 1433 of the General Code, as amended by House Bill No. 243, passed by the 92nd General Assembly effective August 16, 1937, the conservation council is authorized to expend money for the printing of educational leaflets, pamphlets and books relating to fish and game protection, preservation and propagation. (Attorney General Opinion No. 4281, rendered May 23, 1935, and found in the Opinions of the Attorney General for the year 1935, Volume I, at page 600, no longer applicable.)*

COLUMBUS, OHIO, November 10, 1937.

HON. L. WOODDELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR: Acknowledgment is made of your recent communication wherein you request this office to reverse an opinion of my predecessor in office, being Opinion No. 4281, rendered May 23, 1935, the syllabus of which held that the Conservation Council is not authorized to expend moneys for the publishing of a magazine relating to fish and game protection, preservation and propagation.

As stated in your letter, the reason for such request is due to the fact that the last legislature by the enactment of House Bill No. 243, amended the provisions of Section 1433 of the General Code so as to authorize the expenditure of money by the conservation council for the printing of educational leaflets, pamphlets and books relating to fish and game protection, preservation and propagation.

The conclusion reached in the opinion rendered by my predecessor heretofore referred to and found in the Opinions of the Attorney General for 1935, Volume 1, page 600, was based entirely on the fact that under the provisions of Sections 1430, 1432, 1433 and 1438-1 of the General Code, the Conservation Council did not have either express or implied power to expend money for the publication of a magazine relating to fish and game protection, preservation and propagation. However, since the rendition of this opinion the 92nd General Assembly by the enactment of House Bill No. 243, amended the provisions of Section 1433 of the General Code, and in so far as the provisions of this section as amended are pertinent to the matter under consideration, provide as follows:

“Record of Licenses; etc. \* \* \* which shall be paid into the State treasury to the credit of a fund which is hereby appropriated exclusively for the use of the conservation council in the purchase, preservation, propagation, protection and stocking of birds, game birds, game and fur-bearing animals, \* \* \* and the commissioner may employ on such preserves one or more keepers or protectors at such salary and with such duties, as may be prescribed by the conservation commissioner, for improving habitat for birds, game and fur-bearing animals and for all phases of game and fur-bearing animal management including the necessary biological investigations, for printing summarized game laws and the fish and game law book, for printing such educational leaflets, pamphlets and books, and for promoting such educational and research activities as may be approved by the conservation council, and for use as provided in Sections 1438-1, 1441, 1442 and 1443 of the General Code.”

That appropriations were made for the purpose of carrying out the provisions of Section 1433, supra, is evidenced by referring to the provisions of Amended Senate Bill No. 369, passed by the 92nd General Assembly on May 12, 1937, entitled “An Act to Make General Appropriations for the Biennium beginning January 1, 1937, and ending December 31, 1938, \* \* \*”

On page 68 of this act, under the heading of “Division of Conservation,” the following appears:

“For the purpose of carrying out the provisions of Sections 1430 and 1433, General Code of Ohio, there is hereby appropriated to the Division of Conservation all balances in the Uses and Purposes Fund, Lake Erie Fund, Fishing License Fund, and the fund made up from fees derived from the sale of minnow dealers’ permits, as of December 31, 1936, together with all moneys credited and to be credited to said funds during the period beginning January 1, 1937, and ending December 31, 1938. Said funds shall be available for the use of the Division of Conservation for the purposes specified by law.”

In view of the fact that the provisions of Section 1433, General Code, have by the last legislature been so amended as to authorize the expenditure of money by the Conservation Council for the publishing of educational leaflets, pamphlets, and books relating to fish

and game protection, preservation and propagation, and in view of the further fact that by virtue of the provisions of Amended Senate Bill No. 369, appropriations have been made for the purpose of carrying out the provisions of Section 1433, supra, it is apparent that the conclusion reached in Opinion 4281, above referred to, is no longer applicable.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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1448.

STATE CIVIL SERVICE COMMISSION—MAY NOT QUESTION APPOINTING AUTHORITIES RIGHT TO SUSPEND, ETC.

*SYLLABUS:*

*The State Civil Service Commission does not have the authority to question the action of an appointing authority as a matter of administration to conduct a hearing upon the contention of a suspended employe that such thirty day suspension was not in fact for the purposes of discipline, for the reason that there is no statutory provision for appeal in cases of reduction in pay or position, lay-offs or suspensions.*

COLUMBUS, OHIO, November 10, 1937.

*The State Civil Service Commission of Ohio, Columbus, Ohio.*

GENTLEMEN: This will acknowledge receipt of your request for my opinion, which reads as follows:

“Section 486-17 of the General Code of Ohio provides in part that—

‘Nothing in this act contained shall limit the power of an appointing authority to suspend without pay, for purposes of discipline, an employe or subordinate for a reasonable period, not exceeding thirty days; provided, however, that successive suspensions shall not be allowed.’

From long usage and precedent it has been the policy of this Commission to accept the written statement of the appointing authority in the exercise of his administrative duties as Director of the department, that such suspensions were for disciplinary purposes, and to definitely refuse all