

Encumbrance Estimate No. 4712 and the Controlling Board's certificate relating to the purchase of this property were both approved in the former opinion of this department, above mentioned.

I am herewith returning said abstract of title, warranty deed, encumbrance estimate and Controlling Board's certificate for such further action in the premises as you desire to take.

Respectfully,
GILBERT BETTMAN,
Attorney General.

474.

FORFEITED BONDS—CRABBE ACT CASES IN MUNICIPAL COURTS—
DISPOSITION OF MONEY.

SYLLABUS:

Moneys arising from collection of forfeited bonds by the prosecuting attorney in cases brought under the Crabbe Act in the municipal court of Cincinnati, should be paid one-half into the state treasury and the other half into the treasury of the municipality.

COLUMBUS, OHIO, June 1, 1929.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your letter of April 18, 1929, which is as follows:

"The syllabus of Opinion No. 33, page 54, Opinions of the Attorney General for 1915, reads:

"Under the Cincinnati municipal court law, forfeited recognizances thereunder shall be collected by the prosecuting attorney and paid into the county treasury."

Bonds forfeited in the municipal court of Cincinnati in connection with the prosecutions for violations of the Crabbe Act are forwarded to the county prosecuting attorney. When collected by him, the entire amount is paid into the county treasury and retained for the use of the county.

Question: In view of the provisions of Section 6212-19, G. C., as amended 112 O. L., page 260, is such practice legal?"

As you state in your letter, in 1915 the then Attorney General rendered an opinion reported in Opinions of the Attorney General for 1915, page 54, in which he held that under the Cincinnati municipal court law, forfeited recognizances thereunder should be collected by the prosecuting attorney and paid into the county treasury. In this opinion the Attorney General quotes Section 13 of the act creating the municipal court of Cincinnati, 103 O. L. 283, and then says as follows:

"No other provision has been made in this act whereby the practice prevailing in municipal police courts has been changed. Forms of recognizances are found under Sections 13552 and 13553 of the General Code, and are made payable to the State of Ohio.

Section 13546 of the General Code provides that clerks of police courts shall return forthwith to the county auditor of their respective counties all

forfeited recognizances in criminal cases: and under Section 13547 of the General Code, the county auditor shall make a record thereof and deliver the same to the prosecuting attorney for collection; and the prosecuting attorney under Section 13548 of the General Code shall prosecute the forfeited recognizances by him received, for the penalty thereof. Such penalty, when recovered by the prosecuting attorney, shall be paid into the county treasury by the prosecuting attorney under authority of Sections 289 and 2926 of the General Code.

It, therefore, appears that the moneys collected on forfeited recognizances under the Cincinnati municipal court law should be paid into the county treasury."

Section 2916, General Code, provides in part as follows:

"The prosecuting attorney shall have power * * * and forthwith pay to the county treasurer all moneys belonging to the state or county, which come into his possession as fines, forfeitures, costs or otherwise."

On January 27, 1920, the Legislature passed Section 6212-19, General Code, 108 O. L., Part II, page 1184, which read 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."

Section 6212-19, *supra*, as amended in 112 O. L. 260, now reads as follows:

"Money arising from fines and forfeited bonds shall be paid one-half into the state treasury credited to the general revenue fund and * * * one-half into the county treasury credited to the county general fund.

Provided, however, that in state cases prosecuted in any duly constituted municipal court one-half of the money arising from such fines and forfeited bonds shall be credited to the general fund of the municipality in which such municipal court is established."

You will observe that the statutes referred to herein pertaining to forfeited recognizances passed prior to the enactment of Section 6212-19 of the General Code, have been in effect a number of years and deal generally with the powers and duties of prosecuting attorneys and with the method to effect the collection of forfeited recognizances. The provisions of Section 6212-19, *supra*, pertain only to the collection of fines and forfeited recognizances under the Crabbe Act.

The general rule of statutory construction is that later or more specific statutes supersede former and more general statutes insofar as they apply to the same subject.

In the case of *City of Cincinnati vs. Holmes*, 56 O. S. 104, Judge Minshall at page 115, refers to the following rule of construction in such case:

"I know of no rule of construction of statutes of more uniform application than that later or more specific statutes do, as a general rule, supersede former and more general statutes, so far as the new and specific provisions go."

The general rule upon the subject is stated thus:

"Where there is one statute dealing with a subject in general and comprehensive terms, and another dealing with a part of the same subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to consistent legislative policy; but to the extent of any necessary repugnancy between them, the special will prevail over the general statute." 36 Cyc. 1151.

In an opinion rendered by the Attorney General, reported in Opinions of the Attorney General for 1923, Vol. I, page 87, after quoting Section 12378, General Code, which provides as follows:

"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."

it continued:

"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."

While the exact question presented in your letter has never been passed upon by this department or by the Supreme Court, yet in several former opinions with respect to fines, the reasoning contained in them is dispositive here. See Opinions of the Attorney General, 1927, Vol. II, page 877; 1927, Vol. I, page 19; 1927, Vol. I, page 117.

In view of the reasons set forth herein and the authorities cited, I am of the opinion that where money is collected by the prosecuting attorney from forfeited bonds in cases in the municipal court of Cincinnati under the Crabbe Act, one-half should be paid into the state treasury and the other half into the treasury of the municipality.

Respectfully,
GILBERT BETTMAN,
Attorney General.