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BOND—PROCEEDS OF BOND DECLARED FORFEITED BY
MAGISTRATE—PERSON CHARGED WITH VIOLATION OF
WILDLIFE COUNCIL ORDER—WILD ANIMALS—FAILURE
TO APPEAR—MAGISTRATE SHOULD PAY PROCEEDS TO
DIRECTOR OF NATURAL RESOURCES—SECTION 1445 G. C.

SYLLABUS:

The proceeds of a bond declared forfeited by a magistrate when a person who is charged with violating a Wildlife Council Order or a provision of law relating to the taking, protection, preservation, possession or propagation of wild animals, fails to appear should be paid to the Director of Natural Resources by the magistrate in accordance with the provisions of Section 1445, General Code.

Columbus, Ohio, November 18, 1952

Hon. A. W. Marion, Director
Department of Natural Resources
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Where a person, who is charged with violating a Wildlife Council Order or a provision of law relating to the taking, protection, preservation, possession or propagation of wild animals, is taken before a magistrate and there posts bond for his future appearance, and thereafter such person fails to appear, resulting in the magistrate’s declaring the bond forfeited, what disposition should be made with the proceeds of the bond so forfeited?”

Section 1445, General Code, provides as follows:

“All fines, penalties and forfeitures arising from prosecution, convictions, confiscations, or otherwise under this act unless otherwise directed by the director of natural resources shall be paid by the officer by whom the fine is collected to the director of natural resources and by him paid into the state treasury to the credit of a fund which shall be appropriated biennially for the use of the division of wild life. All moneys collected as license on nets in the Lake Erie fishing district shall be paid by the director of natural resources into the state treasury as a special fund to be used in the betterment and the propagation of fish therein, or in otherwise propagating fish in such district; and for that purpose such fund shall be appropriated biennially, and be paid out upon the order of the wild life council but shall not be used or paid out for any purpose other than the purposes for which said fund is appropriated.”

The first sentence of this statute would appear to answer your question. However, there is an apparent conflict of the words contained in the first sentence. The statute speaks first of “all *fines, penalties, and forfeitures* arising from prosecution, convictions, confiscations, or otherwise under this act,” but continues “shall be paid by the officer by whom the *fine* is collected.”

It is a cardinal rule of statutory interpretation that a statute should be construed with reference to the leading idea or purpose of the act. Thus, each clause or sentence should be construed in connection with every other part so that the intent of the whole act will prevail. See Sutherland, *Statutory Construction*, 3rd Ed. Sec. 4703.

Guided by this principle, the apparent conflict in the language of the first sentence of Section 1445, General Code, is readily resolved. The legislative intent is clear; the dominant purpose is plain. This section was enacted to give the Division of Wildlife the use of all moneys received from persons charged with violating the fish and game laws.

The clause "by the officer by whom the fine is collected" merely points out who is to pay the money received to the Director of Natural Resources. This clause is subsidiary to the dominant purpose of the act. It should not be permitted to defeat the broad language used in the beginning of the first sentence.

Section 1445, General Code, or a substantially similar statute, has been a part of the laws of Ohio for more than fifty years. During that time the Bureau of Inspection and Supervision of Public Offices has uniformly interpreted that statute to mean that the proceeds of bonds forfeited by persons charged with violations of the fish and game laws before a magistrate should be disposed of according to the provisions of Section 1445, General Code. In the construction of an ambiguous statute, uniform administrative interpretation is entitled to great weight and should not be disregarded unless other factors make it imperative to do so. See *Industrial Commission v. Brown*, 92 Ohio St., 309, 311. I know of no factors which would compel a different answer to this question.

Accordingly, it is my opinion and you are advised that the proceeds of a bond declared forfeited by a magistrate when a person who is charged with violating a Wildlife Council Order or a provision of law relating to the taking, protection, preservation, possession or propagation of wild animals, fails to appear should be paid to the Director of Natural Resources by the magistrate in accordance with the provisions of Section 1445, General Code.

Respectfully,

C. WILLIAM O'NEILL

Attorney General.