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ARREST BY HIGHWAY PATROLMAN—VIOLATION SECTION 13421-12 G. C.—DISPOSITION OF FINE FOR CONVICTION IN MAYOR'S COURT OF VILLAGE, CONTROLLED BY SECTION 1181-5 RATHER THAN SECTION 13421-20 G. C.

SYLLABUS:

*Where an arrest is made by a highway patrolman for a violation of Section 13421-12, General Code, the disposition of the fine resulting from the conviction of the offender in the mayor's court of a village is controlled by Section 1181-5, General Code, rather than Section 13421-20, General Code.*

Columbus, Ohio, December 26, 1940.

Hon. Ralph Finley, Prosecuting Attorney,  
New Philadelphia, Ohio.

Dear Sir:

I have your recent communication which reads as follows:

"I would like your written opinion upon the following facts, to-wit: Statute G. C. 13421-12 was violated. The offender was apprehended by the State Highway Patrol, plead guilty to the charge in the Mayor's court at New Philadelphia, Ohio, and was fined \$25 and costs. We would like to know what is the proper method of distributing this fine.

It appears that under G. C. 13421-20 all of this fine should be paid to the county treasury and placed to the credit of the fund for the maintenance and repair of the highways within such county. G. C. 1181-5 provides that all fines collected from or monies arising from bonds forfeited by persons apprehended or arrested by State highway patrolmen shall be paid one half into the state treasury and one half to the treasury of the incorporated city or village where such case may be prosecuted."

Section 13421-12, General Code, provides for a fine to be assessed against any person who drives a tractor having "tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind."

By Section 13421-20, a part of the same chapter of the General Code as the above section, it is provided:

“All fines collected under the provisions of this chapter shall be paid into the county treasury and placed to the credit of the fund for the maintenance and repair of the highways within such county.”

Section 1181-5, General Code, to which you also refer in your letter, reads in part as follows:

“All fines collected from, or moneys arising from bonds forfeited by persons apprehended or arrested by state highway patrolmen shall be paid one-half into the state treasury and one-half to the treasury of the incorporated city or village where such case may be prosecuted. Provided, however, if such prosecution is in a trial court outside of an incorporated city or village such money shall be paid one-half into the county treasury. Such money so paid into the state treasury shall be credited to the ‘state highway maintenance and repair fund’ and such money so paid into the county, city or village treasury shall be deposited to the same fund and expended in the same manner as is the revenue received from the registration of motor vehicles.”

A comparison of the two sections reveals that Section 13421-20, General Code, is a general section in that it treats of the disposition of fines in cases of arrest by all officers and that Section 1181-5, General Code, is a specific statute dealing with arrests by a certain type of officer only, that is, highway patrolmen.

The general rule applying under such circumstances where the specific statute is repugnant to the general statute is that the specific statute controls since it more clearly indicates the legislative intent and operates as an exemption to the rule of the general statute, thereby allowing each statute to operate within its own sphere. See Crawford’s Statutory Construction, page 429, Section 230; *Klein vs. Cincinnati*, 33 O. App. 137.

The same result is reached by considering the date of the enactment of the two sections concerned and by application of the rule that as between repugnant sections, the latest in time prevails as being the latest expression of legislative will. See *Thomas, Sheriff vs. Evans*, 73 O. S. 140. Section 1181-5, *supra*, became effective as a law of Ohio August 30, 1935. Section 13421-20, *supra*, became effective September 3, 1915. Therefore, Section 1181-5, being the later enactment, it will, under the last stated rule, be considered as expressing the legislative intent because it is the last statement of legislative will. Thus, where there was a seeming conflict between Section 1181-5, General Code, and Section 1579-1309, General Code, the general statute directing the manner of disposition of fines in Niles Municipal Court, it was held in an opinion rendered by the then Attorney General under date

of June 1, 1935, found in Opinions of the Attorney General for that year, Vol. I, page 642, that Section 1181-5, General Code, being a specific enactment and being the latest in time controlled. Likewise, in Opinion No. 713, Opinions of the Attorney General for the year 1937, Vol. II, page 1273, where there was an apparent conflict between Section 1181-5 and Section 3056, a general statute directing the disposition of fines, it was held that Section 1181-5 prevailed. The first branch of the syllabus of the latter opinion, which illustrates the rule applied, is as follows:

“As to any inconsistency or incompatibility existing between the provisions of Sections 3056 and 1181-5 of the General Code, Section 1181-5 controls, inasmuch as it is later in time and deals with a special matter.”

An application of the rule above stated leads me to the opinion that where an arrest is made by a highway patrolman for a violation of Section 13421-12, General Code, the disposition of the fine resulting from the conviction of the offender in the mayor's court of a village is controlled by Section 1181-5, General Code, rather than Section 13421-20, General Code.

Respectfully,

THOMAS J. HERBERT,  
Attorney General.