

Opinion No. 15-1418

January 9, 1915

BY: H. S. CLANCY, Assistant Attorney General

TO: Honorable O. N. Marron, State Treasurer, Santa Fe, New Mexico.

Fines collected for violation of game law to go to current school fund of the State. Sections 49 and 50 of Chapter 85 of the Laws of 1912 in regard to fines held to be unconstitutional.

OPINION

{*14} I am just in receipt of your letter of the 8th instant asking for the opinion of this office as to what disposition should be made of fines collected from persons who have been found guilty of violations of the game and fish law.

Section 49 of Chapter 85 of the Laws of 1912, which is an act for the protection of game and fish, provides that fines collected for violations of that act shall be sent to the state treasurer and by him set aside to the "Game Protection Fund," while Section 50 of the same act provides that one-half of the fines collected under this act shall go to the state treasurer and be credited by him as aforesaid, and the other half to the persons instituting the prosecution. Both of these sections, so far as they relate to the disposition of fines, are unconstitutional, being in direct conflict with Section 4 of Article XII of the constitution which provides that all fines collected under general laws shall be credited to the current school fund of the state. The game and fish law, above referred to, is undoubtedly a general law, and the total amount of all fines collected for violations of that law should be transmitted to the state treasurer to be by him credited as above stated. There is no law which authorizes the paying of one-half of a fine to the person who institutes a prosecution for a violation of the game and fish law, and it is the duty of officers who collect such fines to remit the whole amount thereof to the state treasurer. It thus appears that all moneys received by you as fines, and which you have placed to the credit of the "Game Protection Fund," should be withdrawn from that fund and placed to the credit of the "Current School Fund" of the state.