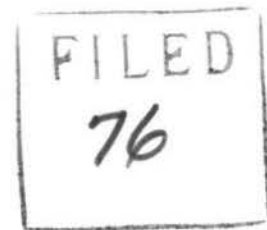


Answer by letter-Wood

January 13, 1971

OPINION LETTER NO. 76

Mr. Joseph Jaeger, Jr.  
Director of Parks  
Missouri State Park Board  
1204 Jefferson Building  
Jefferson City, Missouri 65101



Dear Mr. Jaeger:

You have requested a formal opinion as to the correct disposition of interest earned on the Dr. Edmund A. Babler Memorial State Park Fund (Section 253.360, RSMo). The interest earned on such fund is being credited by the state treasurer to general revenue pursuant to Section 30.240, RSMo.

Article IV, Section 15, Constitution of 1945, provides in part:

"The state treasurer shall be custodian of all state funds. All revenue collected and moneys received by the state from any source whatsoever shall go promptly into the state treasury, and all interest, income and returns therefrom shall belong to the state. Immediately on receipt thereof the state treasurer shall deposit all moneys in the state treasury to the credit of the state in banking institutions selected by him and approved by the governor and state auditor, and he shall hold them for the benefit of the respective funds to which they belong and disburse them as provided by law. . . ."

The Constitution is thus silent on the question raised by you, and the answer must be dictated by statute.

Section 30.240, RSMo, provides:

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"The state treasurer shall hold all state moneys, all deposits thereof, time as well as demand, and all obligations of the United States government in which such moneys are placed for the benefit of the respective funds to which they belong and disburse the same as authorized by law. All yield, interest, income, increment, or gain received from the time deposit of state moneys or their investment in obligations of the United States government shall be credited by the state treasurer to the general revenue."

This law was originally enacted in 1879 (L. 1879, p. 236), and received its present form in 1957 (L. 1957, p. 485). Prior to 1957, the law provided that:

". . . interest and profits as may accrue thereon, shall be disbursed by said treasurer for the purposes of the state according to law upon warrants signed by the state auditor and not otherwise; . . ." (Section 30.240, RSMo 1949)

The last sentence of the present law, providing that interest shall be credited to general revenue, would seem to be more of a change in form, rather than substance.

Section 253.360(1), RSMo, provides:

"There is hereby created the 'Doctor Edmund A. Babler Memorial State Park Fund'. All money, funds, and securities acquired as provided in section 253.350 shall be deposited with the state treasurer to the credit of the fund. All income, interest, rights or rent earned through the operation of the funds shall also be credited to the fund."

This law was first enacted in 1965 (L. 1965, p. 387) and has not been subsequently amended. The last sentence, in providing that interest earned on the fund shall be credited to the fund, is obviously inconsistent with the last sentence of Section 30.240, RSMo. In this circumstance, the earlier and general law, Section 30.240, RSMo, must yield to the later and specific law, Section 253.360(1), RSMo. (Laughlin v. Forgrave, 432 S.W.2d 308, 313 (Mo. banc 1968)). Therefore, it is our opinion that interest earned

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on the Dr. Edmund A. Babler Memorial State Park Fund should be credited to such fund, and not to general revenue.

Yours very truly,

JOHN C. DANFORTH  
Attorney General