

House Bill No. 432, Construction Of, and Effect Upon Sections 3176 and 3177 of the Revised Codes. Justices of the Peace, Fees Of Under House Bill No. 432. Fees of Justices of the Peace, Under House Bill 432.

House Bill No. 432 would have effect of repealing Section 3176 and Section 3177 of the Revised Codes, and Substituting therefor the provision contained in House Bill No. 432; that the total amount of fees must not exceed one thousand dollars

in any one year, and would repeal the law upon which the fees of justices and constables generally are determined.

March 6th, 1911.

Honorable Edwin L. Norris,  
Governor,  
Helena, Montana.

Dear Sir:

Replying to your letter of March 6th, requesting my opinion as to the effect of House Bill, No. 432, upon Sections 3176 and 3177 of the Revised Codes, I will say:

Upon reading Section 3176 it will be found that this section provides what fees may be charged by justices of the peace generally, and also what fees the justice is entitled to in criminal actions and other miscellaneous fees. Under the provisions of House Bill, No. 432, the section is amended to read as follows:

"The total amount of fees allowed by the board of county commissioners in criminal cases must not exceed one thousand dollars in any one year."

House bill, No. 432, would have the effect of repealing Section 3176 as it now appears upon the statutes, and enacting in lieu thereof the provision above quoted.

Section 3177 of the Revised Codes provides the fees the constable is entitled to receive for services which he may perform and this section is amended by house bill No. 432 to read as follows.

"The total amount of fees allowed in criminal cases by the board of county commissioners must not exceed one thousand dollars in any one year."

The effect of house bill No. 432 upon Section 3177 would be to substitute the section above quoted in lieu of Section 3177 as it now appears in the codes.

The intent of the legislature was evidently only to amend that portion of these sections referring to the total amount of fees which may be allowed by county commissioners in any one year and increasing it from \$500 to \$1,000, but the bill expressly provides that each of the sections shall be amended so as to read as stated in the bill, and would have the effect of repealing Section 3176 and 3177, and enacting in lieu thereof the sections as stated in house bill, No. 432.

If this bill becomes a law, the basis upon which fees of justice of the peace, and constables generally would be repealed, and there would be no statute by which such fees could be determined.

Yours very truly,

ALBERT J. GALEN,  
Attorney General.