

**Fees of Justices of the Peace—Justices of the Peace,  
Section 9715 of the Revised Codes Construed.**

Under Section 9715 of the Revised Codes a Justice of the Peace must deposit with the County Treasurer after the conclusion of each case in which a fine or forfeiture is collected, all moneys so obtained after deducting costs incurred in that case only.

March 12, 1917.

Hon. H. S. Magraw,  
State Examiner,  
Helena, Montana.

Dear Sir:

I have your letter of March 5th, requesting a construction of Section 9715, Revised Codes of Montana, 1907, in so far as the same relates to Justices of the Peace.

Section 9715, provides:

All fines and forfeitures collected in any court, except police courts, must be applied to the payment of the costs of the case in which the fine is imposed or the forfeiture incurred; and after such costs are paid, the residue must be paid to the county treasurer of the county in which the court is held."

It has been held by this office (3 Opinions of Attorney General, 187) that, "A Justice of the Peace should deduct from the fines collected in any particular case the costs of the case \* \* \* ."

I am of the opinion that "the costs of the case" as used in Section 9715, means all costs including Jurors and Witness fees, which shall be deducted by the Justice of the Peace, and the residue from each case should be deposited separately with the County Treasurer and it necessarily follows that a Justice of the Peace cannot use the residue to pay the costs incurred in other cases.

Whenever the fees of a Justice of the Peace or Constable in criminal cases amount to the sum of \$500.00 each, the Justice cannot legally make any deduction nor retain from the fine collected by him any sum whatsoever for his fees or those of the Constable in excess of the \$500.00 which have been received during the year.

Respectfully,

S. C. FORD,  
Attorney General.