

Justices of the Peace—Fines.

Justices of the peace have no authority to remit fines, once they are imposed.

Hon. James Griffin,
Capitol Building,

January 30, 1925.

Helena, Montana.

My dear Senator Griffin:

You have requested an opinion from me as to whether a justice of the peace has authority to remit a fine.

Under the constitution of Montana the authority to remit fines is vested in the governor, section 9 of article VII, providing in part as follows:

“The governor shall have the power to grant pardons, absolute or conditional, and to remit fines and forfeitures, and to grant commutations of punishment and respites after conviction and judgment of any offenses committed against the criminal laws of the state.”

The general rule of law covering this question is well set forth in 25 C. J., 1169, as follows:

"The courts cannot as a rule remit fines which have been lawfully and finally imposed. However, some statutes provide that certain courts shall have power to remit a fine imposed by such court (there is no provision for this under the Montana law) when the authority to remit a fine is vested in one branch of the government, that authority cannot be usurped by any other branch."

Also in the case of *Lucky vs. State*, 14 Tex. 400, under a constitutional provision similar to our own, the supreme court held:

"Where the right to remit a fine after conviction is in the executive of the state, the court, after imposing the fine, cannot remit any part thereof."

It is, therefore, my opinion that a justice of the peace has no authority to remit a fine once imposed.

Very truly yours,

L. A. FOOT,
Attorney General.