

Section 12347, R. C. M., 1935, provides: All fines imposed and collected by any court, under the provisions of this chapter, must be paid by him to the treasurer of the county, city or town, according as the offense is prosecuted in a justice or police court, within thirty days after the receipt of the same, and the justice or police judge must take duplicate receipts therefor, one of which he must deposit with the county, city or town clerk, as the case may be.

Section 12433 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 and if not otherwise provided by law, by him credited to the general school fund of said county; and at the time of payment of any such fine or forfeiture there shall be filed with the county treasurer, a complete statement showing the total of the fine or forfeiture received or incurred with an itemized statement of the costs incurred by the county in such action, which statements shall give the title of the cause and be subscribed by the person or officer making such payment.

It appears in most particulars that these two sections are in conflict. However, section 12433 was enacted into law as an amendment to section 12433 of the Revised Codes, 1921, in Chapter 83 of the 18th Legislative Assembly, and Sub-division 2 of that amendment provides that, "all acts and parts of acts in conflict herewith are hereby repealed." While sub-division 2 of Chapter 83 is not incorporated in section 12433 of the R. C. M., 1935, nevertheless, it has not been repealed, and, inasmuch as section 12347 was an existing law at the time of the enactment, by amendment of section 12433, R.C.M., 1935, section 12433 will prevail, and the Justice of the Peace should follow the procedure outlined in section 12433 and after applying the payment of the cost, must remit the residue to the county treasurer, and, further, said justice must file with the county treasurer a complete statement show-

Opinion No. 20.

**Justices of the Peace—Fines,
Remittance of.**

HELD: A Justice of the Peace, before remitting fines to County Treasurer, may deduct costs and pay the same and remit the balance, together with his statement, Section 12433, R. C. M., 1935, in event of conflict, prevails over 12347.

January 19, 1937.

Mr. Gordon O. Berg
County Attorney
Ekalaka, Montana

Dear Mr. Berg:

You have requested an opinion from this office, as to whether or not a Justice of the Peace, before paying over to the county treasurer fines collected by him, can subtract therefrom, the cost of the action, and remit the balance, together with a statement of the total amount of the fine collected, and a statement of the cost deducted therefrom.

ing the total of the fine received, with an itemized statement of the cost covered by the county in such action, which statement shall give the title of the cause and be subscribed by the justice making such payment.

Therefore, it is my opinion that your Justice of the Peace, before paying over to the county treasurer of the county fines collected by him, can subtract the cost therefrom, and he should make a statement to the treasurer in the form as above specified.