

2. When a Justice receives a salary, the county is the beneficiary of the fees.

3. Fees are deductible from the fine.

4. Court fees and other costs, where fine is paid, are distributed in accordance with the provisions of Section 12433; where fine is not paid, distribution is made in accordance with the provisions of Section 4930, R. C. M. 1935.

July 18, 1938.

Mr. George S. Smith
County Attorney
Billings, Montana

My dear Mr. Smith:

You have submitted to this office for my opinion the inquiry as to what fees are properly chargeable by salaried justices of the peace in criminal actions involving violations of the Fish and Game Laws, and whether such fees, if chargeable, shall be paid by the defendant, or deducted from the fine, or paid upon a claim rendered to the State Board of Examiners.

A justice of the peace who does not receive a salary shall receive for all services rendered where there is a plea of guilty, \$2.50; and for all services rendered where there is a trial, \$5.00. (4926.)

When a justice receives a salary, the county shall receive and be the beneficiary of such fees. Any additional fees for witnesses, jurors, and subpoena service connected therewith, together with the board of the prisoners, shall be allowable and collected and paid to the county, or the parties, as their interest may appear.

Sections 3691.1, 3694.1, 3696, 3696.3, 3696.6, 3697.1, 3700, 3706, 3717, 3721.3, 3729.6, 3744.1, 3776.4, 3776.6, 3776.8; 3776.11, 3776.15, 3778, 3778.2 and 3778.8, fix both the maximum and minimum sentence. Costs incurred, excepting the board for the prisoners, are a part and portion of such sentence and not in addition thereto and are deductible (including the board of the prisoners if the same can be determined) from the fine. If the fine is paid, the justice may deduct the costs and the board of the prisoner if the same can be determined and pay the same as provided for in Section 12433. (See Opinions of the Attorney General, Vol. 17, No. 20.)

Opinion No. 305.

Fish and Game Commission—Justice of Peace—Fines—Fees.

HELD: The fees in Justice Court for violation of game laws are prescribed by Section 4926, R. C. M. 1935.

If the fine is not paid, the cost shall be collected in the manner provided for by Section 3705.

The language found in Section 4930, excluding the justice from collecting fees in a criminal case, has been superseded by Section 4926. (See Opinions of the Attorney General, Vol. 17, No. 197.)