

**Opinion No. 31-251**

August 27, 1931

**BY:** E. K. Neumann, Attorney General

**TO:** Mr. Elliott S. Barker, State Game Warden, Santa Fe, New Mexico.

{\*100} This is in response to your inquiry of August 27th, concerning the collection and disposition of the informer's fee of \$ 25.00 provided for in Section 7, Chapter 117, Laws of 1931. This section provides that:

"there shall be taxed as costs in each case the sum of \$ 25.00 which sum when collected shall be {\*101} paid over to the person or persons instituting the prosecution as witness fees."

When this money is collected by whatever officials are authorized by law to collect it, it should be immediately paid to the person or persons instituting the prosecution. This money does not belong to the county or state, and, therefore, should not be paid into the county or state treasury. Of course, if there is any question as to what particular person is entitled to this money for having instituted the prosecution it should be withheld by the officer who collected it until such person has established his right to it, but where there is no question as to what person or persons instituted the prosecution, it should be immediately paid by the officer who collected it and if he does not pay it, it is my opinion that he is liable in an action at law to recover.

By Quincy D. Adams,

Asst. Attorney General