

**Opinion No. 31-259**

September 1, 1931

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

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

{\*101} In your letter of August 31, 1931 asking our opinion upon the constitutionality of Section 57-528, 1929 Code, you apparently refer to Section 57-258, since there is no Section 57-528.

I am of the opinion that Section 57-258, 1929 Code, does not violate the provisions of Section 4, Article 12 of the State Constitution. The \$ 25.00 referred to in said Section is not any part of the fine imposed, but constitutes a part of the costs which are properly taxable in criminal cases.

"So fees of witnesses for the prosecution are taxable in, cases where defendant is liable for the costs of the prosecution, that is to say, to a reasonable amount." 15 C. J. 330.

By Quincy D. Adams,

Asst. Attorney General