



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Game, Fish and Oyster Commission  
Austin, Texas

Gentlemen:

Attention - H. D. Dodgen, Chief  
Clerk.

Opinion No. 0-6934

Re: Proportion of fine for viola-  
tion of provisions of Vernon's Re-  
vised Civil Statutes, Article 934a,  
to be remitted to the Game, Fish &  
Oyster Commission.

You advise that some confusion has been experienced relative to the interpretation of the laws pertaining to the collection and the distribution of money paid as fines for violating laws regulating commercial fishing in this State, and submit the following questions for the consideration of this Department.

"1. Is it required that all moneys, both net fine and court cost, be remitted to the Game, Fish and Oyster Commission for deposit in the State Treasury, when such fines are assessed with violating the act above referred to?

"2. Is it required by the above mentioned law that 100 percent of the net fines (not including court cost) be remitted to the Game, Fish and Oyster Commission for deposit in the State Treasury?

"3. If either or both of the above questions are answered in the negative, what percentage of the amount assessed is to be remitted to the Game, Fish and Oyster Commission?"

The law to which you refer is carried in Vernon's Revised Civil Statutes as Article 934a. The second paragraph of Section 8 of such law provides;

**"All moneys collected under the provisions of this Act, or because of fines paid for violations of the provisions of this Act, shall be remitted to the Game, Fish & Oyster Commission at its office in Austin, Texas, not later than the 10th day of the month following their collection and shall be deposited by said Game, Fish & Oyster Commission to the State treasury to the credit of the Fish and Oyster Fund."**  
(Emphasis our's).

This language is repeated in Section 9 of the same Act, first paragraph.

Article 950 of the Code of Criminal Procedure provides;

**"The District or County Attorney shall be entitled to ten per cent of all fines, forfeitures or moneys collected for the State or county, upon judgments recovered by him; and the clerk of the court in which said judgments are rendered shall be entitled to five per cent of the amount of said judgments, to be paid out of the amount when collected."**

Article 951, Code of Criminal Procedure;

**"The sheriff or other officer who collects money for the State or county, under any provision of this code, except jury fees, shall be entitled to retain five per cent thereof when collected."**

Article 4025 of the Revised Civil Statutes provides in part;

**"Of all fines collected for infractions of the fish and oyster laws, ten per cent shall go to the prosecuting attorney, and the residue**

thereof shall go to the General Fund of this State."

The language of Section 8 of Article 934a requires the remission of "all moneys collected \* \* \* because of fines paid for violations of the provisions of this Act."

This language does not require the remission of costs of court assessed and collected as such. It does, however, require all fines to be remitted in full to the Game, Fish & Oyster Commission. "All moneys collected \* \* \* because of fines paid \* \* \*" does not admit of any interpretation save that the intent of the Legislature was to require the whole sum collected as a fine for violation of the provisions of the commercial fishing law to be remitted to the Game, Fish & Oyster Commission. Since this is a special provision controlling the disposition of a particular fine, and since the law of which this language forms a part was enacted by the Legislature, and became effective after Articles 950 and 951 of the Code of Criminal Procedure and Article 4025 of the Revised Civil Statutes, it controls the disposition of all moneys collected as fines for violation of the commercial fishing law.

Your first question, therefore, is answered as follows: Court costs, assessed and collected as such, are not to be remitted to the Game, Fish & Oyster Commission, under the provisions of Article 934a.

In reply to your second question, you are advised that the entire fine assessed and collected for violation of Article 934a must be remitted to the Game, Fish & Oyster Commission for deposit in the State treasury to the credit of the Fish and Oyster Fund.

Your third question requires no answer, in view of the answers made to the first two questions.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

*R. W. Fairchild*

R. W. Fairchild

Assistant

BWFC-MR APPROVED JUL 23, 1943

*Gerald C. Mann*  
ASSISTANT  
ATTORNEY GENERAL

