

**County Records, Transcribing Of, on County Division—Sanders
County. County Clerk—Fees for Comparing Trans-
cribed Records.**

Under Sec. 9 of the Act creating Sanders County, (Laws 1905, page 18), the county clerk of Missoula County is entitled to five dollars per day while engaged in comparing and certifying to the records transcribed for Sanders County.

This law does not fix the number of days in which this work must be performed, but does limit the compensation for doing such work, it being five dollars per day.

Helena, Montana, April 21st, 1906.

Hon. C. H. Rittenour, Chairman, Board of County Commissioners, Plains, Montana.

Dear Sir:—I am in receipt of your letter of April 16th, in which you submit the question as to what is the charge which can legally be made by the county clerk and recorder of Missoula County for comparing and certifying the records belonging to Sanders County.

The only authority under which the commissioners of Sanders County can allow any compensation whatsoever for this labor, is contained in the act creating Sanders County which provides in Section 9 "The county clerk of Missoula County shall receive for his services in comparing and certifying to the correctness of the copies of said records, Five dollars (\$5.00) per day while engaged in said labor, which amount shall be paid by the county of Sanders on the completion of said labor." No provision is made in the law for the employment of deputies or assistants. This law enjoins upon the office of the county clerk and recorder of Missoula County this extra duty and fixes the compensation therefor. Whether the work is done by the clerk himself, or by a deputy, or whether it is done by the clerk and a deputy, is immaterial.

I am, therefore, of the opinion that the total amount which can be legally charged is the amount named in the Act, to-wit: five dollars per day. The law does not appear to limit the time or the number of days and, in that respect, is indefinite, but it does fix the fee per day.

Very truly yours,

ALBERT J. GALEN,

Attorney General.