Records for New County, Duty of County Clerk in Comparing. County Clerk, Duty of in Comparing Records for New County. Fees of County Clerk, for Comparing Records for New Counties. Board of County Commissioners, Authority of to Employ Extra Assistance.

It is the duty of the county clerk of the old county to compare the transcribed records for the new county with the original

records. The fee for such comparing is six dollars per day per man, if more than one man is engaged in such comparing. As this fee goes to the county and not to the clerk, the county commissioners of the old county are authorized to employ extra assistance, if necessary.

March 15th, 1913.

Hon. D. L. Blackstone,
County Attorney,
Chinook, Montana.

Dear Sir:

I am in receipt of your letter of the 5th inst., making inquiry as to the duty of the county clerk in comparing records for the new county as to when this comparing should be done and what compensation may be legally charged therefor. The law, as you are aware, makes it the duty of the county clerk of the old county to compare the transcribed record with the original records, and in as much as there is no time mentioned in the statute, it is presumed to be done at once, or at least within a reasonable time, and a failure to comply with this provision would probably be a foundation for a mandamus proceeding. The fee fixed by the statute in Sec. 2864, R. C., is six dollars per day. It is immaterial whether the comparing is done by the county clerk in person or by some deputy in his office. I take it that the six dollars per day means six dollars for each day's work in comparing, and if there are two men working at it at the same time, the fee would be six dollars for each one. The ordinary duties of the county clerk may be such as to prevent him from doing the comparing in person or probably by the ordinary force in his office, but in as much as the fee goes to the county and not to the clerk, the commissioners of the old county are authorized to employ extra assistance if necessary to enable the clerk to discharge this duty which the law places upon him.

Very truly yours,

D. M. KELLY,
Attorney General.