

Coroner, Fees for Subpoena. Fees, Subpoena by Coroner.

Under Section 4640, Political Code, the coroner is not entitled to a fee for issuing subpoena. He is entitled to thirty cents in all cases where he personally serves the subpoena.

Helena, Montana, July 28, 1908.

Hon. O. C. Gosman,
Chairman Board County Commissioners,
Dillon, Montana.

Dear Sir:—

Your letter of the 23rd inst. requesting an opinion upon the following question, received:

“Is the fee of 30 cents allowed coroner for issuance of subpoena, or for service of same, that is, when coroner’s subpoenas are served by another competent officer, is the coroner entitled to collect 30 cents for each subpoena issued by himself?”

Section 4640, Political Code, fixes the fees that may be charged by the coroner, and so far as applicable to the question submitted, reads as follows:

“For subpoenaing each witness, including copy of subpoena, 30 cents.”

The word subpoena, as here used, is a verb, and is defined by Webster’s Dictionary as follows:

“To serve with a writ of subpoena; to command attendance in court by a legal writ under a penalty in case of disobedience.”

Therefore, substituting the definition of the word “subpoenaing” into the line quoted above it would read as follows:

“For (serving with a writ of subpoena) each witness, including copy of subpoena, 30 cents.”

You are therefore advised that the coroner can only collect the thirty cents when he actually serves the subpoena, in which case he is also entitled to ten cents per mile for each mile actually traveled in making the service. On the other hand, if the coroner merely issues a subpoena and delivers it to some other officer or competent person, who serves same, then such other officer or competent person is entitled to thirty cents for the subpoenaing or serving of the witness, and the mileage necessarily traveled in making service.

Yours very truly,

ALBERT J. GALEN,
Attorney General.