

Fees, of Coroner for Taking Testimony. Coroner, Fees of in Taking Testimony. Stenographer's Fees, at Coroner's Inquest.

The law allows a coroner fifteen cents a folio for taking testimony at inquests. He can take the testimony or hire a stenographer at not to exceed fifteen cents per folio. The district court stenographer can charge no more than any other stenographer when taking such testimony.

Helena, Montana, September 9, 1909.

Board of County Commissioners.

Dillon, Montana.

Gentlemen:

I am in receipt of a letter from the clerk of your board, requesting an opinion upon the following question:

The regularly appointed stenographer of the district court was taken by the county attorney and the coroner to Wisdom, for the purpose of taking the testimony given at a coroner's inquest. The stenographer submitted a bill, charging fifteen cents per folio for the testimony and \$2.75 as expenses in one inquest, and in another inquest he charged fifteen cents per folio and \$4.10 expenses. The question submitted is whether the stenographer should be paid fees or should be allowed only his expenses, and if he is entitled to fees at what rate per folio?

Section 9698, revised codes, provides that the testimony of witnesses examined before a coroner's jury must be reduced to writing by the coroner, or under his direction. Section 3173, revised codes, fixes the fees of the coroner, and provides that, "For making transcript of testimony, per folio fifteen cents." Under these two sections it is the duty

of the coroner to take the testimony or procure it to be taken under his direction. The coroner is entitled to fifteen cents per folio where he takes it himself, or if he employs a stenographer he can pay the stenographer whatever rate is agreed upon between them, not exceeding, however, fifteen cents per folio. If he employs a stenographer and agrees to pay him the full rate of fifteen cents per folio, then the coroner could either pay the stenographer directly and put in his bill for fifteen cents per folio, or he could permit the stenographer to put in the bill, o. k'd. by the coroner, but in no case would a stenographer so employed by a coroner be entitled to his traveling or other expenses, he simply receives the fifteen cents per folio, or whatever other rate may be agreed upon between him and the coroner and must pay his own expenses.

Sections 6373 to 6380, revised codes, providing for the appointment of stenographers by the district courts, has nothing to do with the compensation such a stenographer receives when performing duties outside of those required of him in the district court practice. The fees provided for in section 6376 relate only to testimony taken in actions pending in the district court, and the expenses allowed a stenographer under section 6378 relate only to expenses incurred in attending to district court matters.

The fact that the coroner or county attorney saw fit to ask the district court stenographer to take the testimony at the coroner's inquest makes no difference in the fees allowed him from that of any private stenographer who may do such work for the coroner. Therefore, in our opinion, the charge of fifteen cents per folio is a proper charge if the bill is o. k'd. by the coroner, but the expenses of \$2.75 and \$4.10 are not proper charges and should be deducted from the bill.

I herewith return the bill of Edward C. Smith.

Very truly yours,

ALBERT J. GALLEN,

Attorney General.