

**Fees, of County Clerk for Certifying Copies. County Clerk,
Fees for Certifying Copies.**

Where the county clerk makes a copy of an instrument in his office, he is entitled to fifteen cents a folio, which fee covers the affixing of his certificate to the copy. Where the copy of the instrument is prepared by some one else and presented to the clerk to compare and certify, he should charge a fee of fifty cents for comparing and affixing his certificate under seal.

Helena, Mont., Oct. 11, 1909.

Hon. D. M. Kelly,
County Attorney,
Boulder, Montana.

Dear Sir:—

I am in receipt of your letter of the 6th inst., requesting an opinion upon the following proposition:

“The county clerk charges fifteen cents per folio for making a copy of any record or paper in his office, and in addition thereto fifty cents if certified under his hand and seal, that the same is a true and correct copy.

“If a party goes into the office and makes his own copies he charges the same fee as though he made them himself, as above stated.”

The fee to charge for copies is not clearly defined by our statute. In Oregon and Washington and many other states the law fixes the fee for making a copy at ten cents or fifteen cents per folio, and then provides that where the copy is furnished to the county clerk that he shall charge merely a nominal fee for comparing and certifying to the same, but our law simply provides “For a copy of any record or paper, for each folio, fifteen cents,” and does not indicate whether this is the fee to be charged only when the copy is made by the officer or must also be charged when the copy is furnished by the person desiring it certified to.

In an opinion heretofore rendered to the board of county commissioners of Silver Bow county on May 26, 1909, copy of which is herewith enclosed you, we held that where an instrument was offered for filing and recording, that the only fees the clerk could charge was thirty cents for the first folio and fifteen cents for each subsequent folio or fraction thereof, and ten cents for each index, and that such fee was the total fee, no charge being made for placing the filing endorsements on such instrument. We further held in such case that where the county clerk made a certificate certifying that a certain instrument has been filed and recorded and affixing his seal that he was entitled to fifty cents for such certificate.

In our opinion the facts you submit are analagous to a certain extent. Where the county clerk makes a copy of any record or paper he should charge fifteen cents per folio, and this charge is the only fee he can collect, and it includes the fixing of his certificate to the effect that it is a true copy, for you will notice that the law does not say fifteen cents per folio and fifty cents for the certificate. On the other hand, where a person presents a copy himself and asks the clerk to compare and certify to it as correct, the clerk should charge fifty cents for comparing and certifying the same under his seal. There is no specific subdivision of section 3168 which provides for such a charge, but the fourth subdivision provides that "for certificate that such instrument has been filed and recorded, with seal affixed, fifty cents." and subdivision 17 provides that "for administering an oath, with certificate and seal," a charge of fifty cents should be made, except in certain cases. While the last subdivision of said section provides that "for filing, recording and indexing any other instrument not herein expressly provided for the same fee as hereinbefore provided for similar service shall be charged." Therefore, in our opinion, where a person presents a copy and asks the clerk to certify to it as correct over his seal, it is a similar service to that provided for in subdivision 4 and 17, and the clerk should charge a fee of fifty cents.

Very truly yours,

ALBERT J. GALEN,

Attorney General.