

**Clerk of District Court, Fees of. Fees, of Clerks of District Court.**

Clerks of district courts are not required by any law of this state to perform, ex officio, the services of a U. S. commissioner, and therefore any money by them earned in that way belongs to them and not to the county.

October 6th, 1913.

Hon. A. W. Ziebarth,  
Clerk of the District Court,  
Chinook, Montana.

Dear Sir:

I am in receipt of your recent inquiry, wherein you ask for an opinion of this office as to whether if you, in your official capacity taking land filings and final proof, are required to turn over to the county fees collected by you for such services. In reply will say that Sec. 3112, Revised Codes, provides, among other things, that no

county officer must receive for his own use any fees, penalties or emoluments for any official service rendered by him, but all fees, penalties and emoluments of any kind must be collected by him for the sole use of the county and are public moneys belonging to the county. I am of the opinion that the requirements of this section, in so far as your office is concerned, belong only to such services as are rendered by you for and on behalf of the county in your official capacity. You are not required by any law in force in this state to perform ex-officio the services of a United States commissioner, with respect to land filings or final proof. If you are permitted to do this by federal authority, and do in your capacity as clerk of the court perform such services as are usually performed by United States commissioners, I am of the opinion that moneys thus earned by you belong to you and not to the county, and you are not required to account for such to the county.

Yours very truly,

D. M. KELLY,  
Attorney General.