

**Justice of the Peace—Fees—Change of Venue—County Surveyors, Equipment For.**

A Justice of the Peace is not entitled to a fee upon a case being transferred to his Court.

A County Surveyor should be furnished with equipment necessary to perform duties prescribed by House Bill 32.

May 1st, 1919.

Mr. Fred R. Angevine,  
Deputy County Attorney,  
Missoula, Montana.

Dear Sir:

I herewith acknowledge receipt of your two letters dated March 17th and March 19th. Permit me to suggest that this office would very much appreciate it if when attorneys submit questions for an opinion that they would first brief up the law for the guidance of this office in investigating the question submitted.

Answering your first letter relative to the fees payable to Justices of the Peace on change of venue in civil cases, I am of the opinion that the Justice to whom a case is transferred on change of venue is not entitled to any fee for the mere docketing of the case in his court. He is, however, entitled to charge the regular schedule of fees prescribed by Section 3176 for all services rendered in his court. For example, if a case is transferred after the filing of the complaint and before issue is joined, the justice receiving the same is entitled to \$2.50 when answer is filed and \$2.50 when judgment is rendered. If transferred after issue is joined he would be entitled to \$2.50 only.

You will observe that the statute nowhere makes provisions for a justice of the peace to charge a fee for filing and entering a case on a transfer of same from another justice court. The Clerk of a District Court is specifically authorized by Section 3169 to charge a fee of \$5.00 "for filing and entering papers on transfer from other courts." No such fee, however, is provided to be paid in justice's court. All of the fees of justices of the peace are specifically enumerated in Sections 3175 and 3176; no provision for the charging of a fee being enumerated therein.

The language of Section 6508 to which you direct my attention, namely, "the costs and fees thereof and of filing the papers anew must be paid by the party at whose instance the order was made," must be construed as having reference only to district court proceedings, this being the only court authorized to charge a fee for filing the papers anew.

Regarding your letter of March 19th, asking whether or not since the passage of House Bill No. 23, Boards of County Commissioners are now required to furnish county surveyors with the equipment mentioned in the Act, I have to advise as follows: House Bill No. 23 is now in full force and effect and it is my opinion that it is now the duty of all county surveyors to perform the services therein prescribed. Such being the case, these officials are entitled to be furnished with suitable offices and equipment as specified in the Act.

Respectfully,

S. C. FORD,

Attorney General.