

Attachment—Writ of Attachment—Fees—Sheriff.

Where an attachment is levied upon property in the hands of a third person and a copy of the writ served upon the defendant, but one fee can be charged therefor, and the Sheriff is not entitled to make a separate charge for the service of the writ upon the defendant.

I .S. Crawford, Esq.,
County Attorney,
Forsyth, Montana.

My dear Mr. Crawford:

You have submitted to me the question of whether the Sheriff, in levying a writ of attachment upon property in the hands of a third person, is entitled to a service fee of \$1.00 for serving a copy of the writ upon the defendant in the case.

Section 4916, R. C. M. 1921, relating to the fees of Sheriffs, insofar as it relates to attachments of property, is as follows:

“For levying and serving each writ of attachment or execution on real or personal property, besides mileage, one dollar.”

It will be observed that one fee is to be charged for levy and service, and that only one fee is to be charged for each writ, regardless of the number of levies or services made under that writ.

It is, therefore, my opinion that in the case mentioned the levy of the writ of attachment upon the property in the hands of a third person and the service of the copy upon the defendant having been done under the same writ but one fee can be charged therefor, and that the Sheriff is not entitled to make a separate charge for the service of the copy of the writ upon the defendant.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.