

named as plaintiffs. We are also advised that the trial of this action has run over a period of several months and that this action is still being tried.

The answer to your question depends upon the construction of the phrase, "each party to the suit" in Section 8932, R. C. M., 1935, which reads:

"In every issue of fact in civil actions tried before the court or jury, before the trial commences, there must be paid into the hands of the clerk of the court, by each party to the suit, the sum of three dollars, which sum must be paid by said clerk into the treasury of the county where the cause is tried, to be applied upon the payment of the salary of the stenographer, and the prevailing party may have the amount so paid by him taxed in his bill of costs as proper disbursements."

Opinion No. 151.

**Courts—Court Stenographer—
Fee—Parties.**

HELD: Each party plaintiff presenting a separate issue of facts to be supported by testimony or proof to be taken by the court stenographer is a party to the suit within the meaning of Section 8932 and must pay the fee of \$3.00 to be applied upon the payment of the salary of the court reporter.

October 13, 1939.

Mr. John M. Comfort
County Attorney
Virginia City, Montana

Dear Mr. Comfort:

In a water right action, where there are many parties joined as plaintiffs (or defendants), each setting up in the complaint filed separate issues of fact pertaining to the date of appropriation of water, amount of water appropriated and the tract for which the water was appropriated and used, you inquire whether each of the parties plaintiff should pay to the clerk of the court the sum of \$3.00 to be applied upon the payment of the salary of the court stenographer, or whether the sum of \$3.00 will suffice for all of them. In the case to which you refer we are advised by the clerk of the court that there are over fifty parties

In construing a statute, in order to give effect to the intent of the legislature, the object of the statute must be kept in mind. (59 C. J. 961, Sec. 571.) To this end it must be given a reasonable or liberal construction; and if it is susceptible of more than one construction, it must be given that construction which will best effect its purpose. (Id.) "Statutes are to be construed so as best to effectuate the object of the legislature." (State v. Mills, 81 Mont. 86, 261 Pac. 885.) Many other cases could be cited to the same effect but there is no question as to the rule.

Unquestionably the object of the above section is to require litigents whose causes are tried before a court or jury requiring the services of a court reporter, to pay a reasonable fee towards the salary of such reporter. Keeping this object in mind, we think the correct rule or test was stated by Attorney General Galen in Volume 1, Opinions of the Attorney General, p. 156, where he said:

"The term 'each party to the action' as used in said section 374, code of civil procedure, has reference to the different sides of the controversy rather than to the individuals named as plaintiffs or as defendants, and where their interests are so united in their relations to each other as plaintiffs or as defendants as to be a unit with respect

to the issue or issues presented by their respective sides, then but one stenographer's fee can be charged to each side of the case. But where separate issues of fact are raised by separate pleadings, or otherwise, (if they can be otherwise raised) that require a 'trial by the court or jury,' then the party presenting such issue is liable to the payment of a separate stenographer's fee. This latter condition may frequently arise, especially in actions to foreclose liens or to establish claims to water rights, where each answering defendant may set up a separate lien or claim which requires separate evidence and separate adjudication."

We think that the Attorney General arrived at a construction not only supported by authorities but which meets the object of the statute. Applying the rule to the facts you have submitted, we are of the opinion that each of the parties plaintiff, presenting a separate issue of facts and consequently a different side of the controversy, to be supported by testimony or proof to be taken by the court stenographer, is a party to the suit and must pay the fee of \$3.00. We think this is in line with the object and purpose of the statute to require each litigant to pay his just and reasonable share of the expense of reporting the evidence.