

TOWNSHIP CLERK'S FEES:

Township clerk under Section 12310 R. S. Mo. 1929, as amended Laws of 1931, page 377, is not entitled to any fee for issuing warrants.

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January 2, 1935



Mr. H. T. Phelps  
Township Clerk  
Salisbury, Missouri

Dear Sir:

This is to acknowledge receipt of your request for an opinion, dated December 17, 1934, which reads as follows:

"I am writing you in regards to the pay of the Township Clerk. I understand that the members of Board and Clerk each receive \$2.50 per meeting now. They use to get only \$1.50 per meeting.

Now what I want to know is does the clerk get 10cts for each warrant he writes. I know how the law reads but just how do you understand that. I want what is coming to me and no more.

If I am entitled to 10 cts. per warrant I want to know it. That is what you told me when you was prosecuting atty. years ago at Heber Hayes trial. Now the Board understands it that way but I want your opinion so we will all know. Do I collect 10 cts. for each warrant written or not? If not what am I to get?

Thanking you for an early reply and wishing yourself and family a Merry Xmas and very Happy & Prosperous New Year."

Section 12310 R. S. Mo. 1929, as amended by Laws of 1931, page 377, provides as follows:

"The township clerk, as clerk, the township trustee, as trustee, members of the township board, and judges and clerks of election, shall each receive for their services two dollars and fifty cents per day: Provided, that the township clerk shall receive fees for the following, and not per diem, for serving notices of election, or each: for filing any instrument of writing, ten cents; for recording any order or instrument of writing, authorized by law, ten cents for every hundred words and figures; for copying and certifying any record in his office, ten cents for every hundred words and figures, to be paid by the person applying for the same. And provided further, that the township trustees ex officio treasurer shall receive a compensation of two per cent. for receiving and disbursing all moneys coming into his hands as such treasurer when the same shall not exceed the sum of one thousand dollars and one per cent. of all sums over said amount."

This section provides that a township clerk is entitled to a per diem of \$2.50 and to certain stipulated fees in addition to the per diem. A township clerk, under the law, is entitled to only such fees as the statute authorizes. In the case of *State ex rel. v. Brown* 146 Mo. l. c. 406, the Court said:

"It is well settled that no officer is entitled to fees of any kind unless provided for by statute, and being solely of statutory right, statutes allowing the same must be strictly construed. *State ex rel. v. Wofford*, 116 Mo. 220; *Shed v. Railroad*, 67 Mo. 687; *Gammon v. Lafayette Co.*, 76 Mo. 675. In the case last cited it is said: 'The right of a public officer to fees is

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derived from the statute. He is entitled to no fees for services he may perform, as such officer, unless the statute gives it. When the statute fails to provide a fee for services he is required to perform as a public officer, he has no claim upon the state for compensation for such services.' Williams v. Chariton Co., 85 Mo. 645."

The above statement of law has been followed and approved by the Supreme Court in numerous decisions.

State v. Wofford 116 Mo. 220;  
State ex rel. Linn County v. Adams 172 Mo. 1.

#### CONCLUSION.

It is the opinion of this office that the above section does not provide that the township clerk can charge a ten cent fee for each warrant issued by the board, and that the charge for this service is illegal.

Respectfully submitted,

OLLIVER W. NOLEN  
Assistant Attorney General,

APPROVED:

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ROY McKITTRICK  
Attorney General.