FEES OF COUNTY CLERK:

1. County clerk making up tax books and using ditto marks to designate townships and ranges allowed to charge for same at rate of ten cents per hundred words and figures.

2. County clerk not allowed to charge for writing the minutes of the County Court Record from which the record of the court is written.

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October 21st, 1933.

Mr. Homer Rinehart,
Prosecuting Attorney,
West Plains, Missouri.

Dear Mr. Rinehart:-

We have received your letter of September 14, 1933, in which was contained a request for an opinion as follows:

> "I desire an opinion from your office in reference to the fees allowed a County Clerk on the following items:
>
> "1st. Is a County Clerk in making up tax books for the use of County Collector whereshe uses ditto marks to designate townships and ranges, etc., allowed to charge for ditto marks at the rate of ten cents per hundred words and figures?
>
> "2nd. Is a County Clerk allowed to make any charge for writing the minutes of the County Court Record, from which the record of the court is written, if so how much?"

I.

As to the first question propounded in the above letter it is the opinion of this office that a county clerk may charge for ditto marks used in making up tax books at the rate prescribed by the statute.

Senate Bill 50, Laws 1933, pages 421 and 422, repealing and reenacting sections 9876 and 9877, Revised Statutes of Missouri, 1929, provides on page 422, Laws 1933, in part as follows:

> "The clerks of the county courts shall receive ten cents per hundred words and figures for all words and figures extended by him in making out the tax books, one half thereof to be paid by the state and other half by the counties respectively, etc."

The above section as reenacted is made a part of Article 7, Chapter 59, Revised Statutes of Missouri, 1929, said Chapter being entitled "Taxation and Revenue". With this in mind, we now consider section 9978, Article 11, Chapter 59, R. S. Missouri, 1929, which provides as follows:

> "Sec. 9978. ABBREVIATIONS, WHEN ALLOWED.-- In all advertisements, notices, lists, records, certificates, deeds or other papers, required to be made by or under any of the provisions of this chapter, it shall be lawful to use letters, figures and characters, as follows: Letters may be used to denote township, range, boundaries, parts of section, parts of lots or blocks, or other subdivisions of real estate, in the following manner: T for township, R for range, L for lot, B for block, N for north, E for east, S for south and W for west, or any combination or combinations of the four last mentioned letters to denote parts of sections, lots, blocks or other subdivisions of real property. Figures may be used as may be requisite to state any number required, whether it be of township, range, survey, section, block, lot or part thereof, acres or fractions thereof, date of any kind, amount of taxes, interest or costs, or any other matter or thing which may be stated or given in figures. Characters, such as "〃", or the words 'do', or 'ditto', or 'same', may be used to denote continuation of township, range, years, tax due or other dates, and when either shall be so used, shall be deemed and held to denote the same as shall stand next above in the column in which any such character or word shall be so placed; any and all descriptions of real estate made under the provisions of this chapter by the use of letters, figures and characters, as provided in this section, when so made that the land or lot may be identified and located, shall be deemed and held to be good, valid and complete, as though the same had been written out in full. Dates of valuation and taxation, taxes, interest, costs, acres, blocks or lots, or any fractions thereof, or any other number or amount, when stated in figures, letters or characters, as herein provided, shall be deemed and held to be fully and fairly stated, as though the same had been written out in full."

Since both of the above quoted sections are part of the same chapter, that is, Chapter 59, the latter by its wording must be taken to refer to the former. The use of ditto marks is to be given the same effect as though the matter had been written out in full and since the legislature did not qualify this provision, it must be taken to be true for all purposes, including the counting

of ditto marks as words or figures for the purpose of measuring the amount of the fees of the county clerk. The clerk if he or she so chose could write all words and figures out in full and the mere fact that ditto marks are used thereby saving the time of both clerk and county, should not penalize the user thereof by a commensurate reduction of fees.

The courts of Missouri have never passed on this identical question but have often upheld the use of well understood and common abbreviations in the making up of tax books and assessment rolls. See State ex rel Wyatt vs. Vaile, 122 Mo. 33, l.c. 49. This, however, is beside the point as we feel our opinion in this matter to be clearly supported both by statute and good conscience.

II.

As to the second question contained in your letter quoted above, it is the opinion of this office that the county clerk is not entitled to make any charge for writing the minutes of the County Court Record from which the record of the court is written.

Section 11781, Revised Statutes of Missouri, 1929, sets out with particularity all the services of the county clerk for which fees shall be allowed, and no provision for a fee thereunder can be construed to include the mere writing the minutes of the County Court Record. Compensation by fee is provided for copying and filing various papers and records and such provisions are very broad in scope. No where in the statutes, however, can any provision be found providing fees for the original writing of such papers as the minutes referred to above.

The general rule on the subject is stated in the case of State ex rel. Wedeking vs. McCracken, 60 Mo. App., l.c. 656, and is adverted to in the case of King vs. Riverland Levee Dist., 279 S.W. 195, at page 196, in the following language:

> "It is no longer open to question but that compensation to a public officer is a matter of statute and not of contract, and that compensation exists, if it exists at all, solely as the creation of the law and then is incidental to the office. State ex rel. Evans v. Gordon, 245 Mo. 12, loc. cit. 27, 149 S. W. 638; Sanderson v. Pike County, 195 Mo. 598, 93 S.W. 942; State ex rel. Troll v. Brown, 146 Mo. 401, 47 S. W. 504. Furthermore, our Supreme Court has cited with approval the statement of the general rule to be found in State ex rel. Wedeking v. McCracken, 60 Mo. App. loc. cit. 656,

> to the effect that the rendition of services by a public officer is to be deemed gratuitous unless a compensation therefor is provided by statute, and that if by statute compensation is provided for in a particular mode or manner, then the officer is confined to that manner and is entitled to no other or further compensation, or to any different mode of securing the same. State ex rel. Evans v. Gordon, supra."

Further, the language of the court in the case of State ex rel. Linn County vs. Adams, 172 Mo. 1, at page 7, is illuminating on this point:

> "In order to maintain this proposition, some statute must be pointed out which expressly or by necessary implication provides such compensation for such officer. For it is well settled law that a right to compensation for the discharge of official duties is purely a creature of statute and that the statute which is claimed to confer such right must be strictly construed. (Jackson County vs. Stone, 168 Mo. 577; State ex rel. vs. Walbridge, 153 Mo. 194; State ex rel. vs. Brown, 146 Mo. 401; State ex rel. vs. Wofford, 116 Mo. 220; etc."

With the above in mind, it is clear that the county clerk cannot be allowed to make any charge for writing the minutes of the County Court Record.

Very truly yours,

CHARLES M. HOWELL, Jr.,
Assistant Attorney-General.

APPROVED:

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Attorney-General.