

Opinion No. 16-1875

October 4, 1916

BY: F. W. CLANCY, Attorney General

TO: Arthur Seligman, Chairman, Democratic State Central Committee, Santa Fe, N. Mex.

County clerks not authorized to charge for filing certificates of nominations of state and federal officers.

OPINION

{*425} I have this morning received your letter of yesterday in which you state that a number of county clerks have refused to file certificates of nomination of state and federal officers unless you pay a filing fee of one dollar. You further say that you have had the laws examined and can find no provision for any such charge, and you ask me to advise you whether or not such a charge is justified under the statutes.

I would like very much to be informed upon what ground the county clerks have undertaken to make this charge, because there may be something in the statutes which I have overlooked. I have made a careful examination of those sections of the statutes which provide fees to be charged by county clerks and I am unable to find anything upon which to base this particular charge. It is a general rule that public officers are entitled only to receive compensation or fees distinctly provided by statute, and in the absence of any provision authorizing or requiring this charge, it is my opinion that it is not proper. The clerks may have, in view of the severe penalty imposed for not properly discharging duties, thought it the part of safety to make some charge for every official act which they perform.