

Opinion No. 44-4516

May 16, 1944

BY: EDWARD P. CHASE, Attorney General

TO: Mr. C. R. Sebastian, State Comptroller, Santa Fe, New Mexico

Receipt is acknowledged of your letter dated May 11, 1944, enclosing a letter to you from Ruth H. Bach, Clerk of the District Court. You inquire whether the Servicemen's Dependents Allowance Act of 1942 would prevent the collection of statutory fees of District Court Clerks.

Section 119 of the Act, as amended October 26, 1943, by Public Law 174, provides as follows:

"Any person who shall, directly or indirectly, solicit, contract for, charge, or receive or shall attempt to solicit, contract for, charge, or receive any fee or compensation for assisting in any manner an enlisted man or dependent in obtaining a family allowance payable under this title, shall, upon conviction thereof, be guilty of a misdemeanor, and for each and every offense shall be punishable by a fine of not less than \$ 100, nor more than \$ 1,000, or by imprisonment at hard labor for not more than two years, or by both such fine and imprisonment."

The original act prohibited payment of any part of the allowance to an agent or attorney for services rendered in connection with the allowance. The present act prohibits any person from charging, receiving, or soliciting, etc., any fee or compensation for assisting in obtaining a family allowance. This act does not define the word "person" to include a state or its subdivisions and, in the absence of express language to that effect, would not supersede state laws in connection with the fees for services rendered by the various public officials. For that reason, I am of the opinion that statutory fees should continue to be collected, pursuant to the state law, by the District Court Clerk.

Trusting that the foregoing answers your inquiry, I am

By C. C. McCULLOH,

First Asst. Atty. General