

references with respect to an assignment of a lease. It is a well established principle of law in this state that a public officer may not collect fees except such fees as are expressly authorized to be collected by statute.

In my Opinion No. 1668, issued under date of March 25, 1930, it was pointed out that there was no authority of law authorizing a recorder to charge twenty-five cents (25c) for making a marginal reference to an assignment which included property involved in a number of separate leases. Said opinion held, as disclosed by the syllabus:

"Where the owner of a number of oil and gas leases assigns his interest therein to another in one instrument, such instrument is included in the term 'other instrument of writing' within the provisions of Section 2778 of the General Code, and the recorder should charge twelve cents for each hundred words actually written for recording, and five cents for each grantor and each grantee therein for indexing said instrument."

I have made a study of the various sections of the Code with relation to the fees which a county recorder may charge, but am unable to find any authority therein contained for a charge such as that concerning which you inquire. The service of the recorder in placing the marginal reference upon the records is commendable and no doubt is of material assistance to those having occasion to make a search of the records. In its nature it is a form of indexing and Section 2728 of the Code has already prescribed a fee of five cents (5c) for each grantor and each grantee in connection with indexing. It is not in the nature of the services for which the charge of twelve cents (12c) for each hundred words may be made, for these services are in connection with recording various instruments and the marginal reference is not recording but merely a notation as to where the instrument may be found.

In view of what has been said I am of the opinion that a county recorder has no authority to make a charge for making a marginal reference to an assignment on the original record of a lease.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2069.

APPROVAL, CONTRACT FOR ROAD IMPROVEMENTS IN STARK AND
UNION COUNTIES.

COLUMBUS, OHIO, July 8, 1930.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*