

OFFICERS: COMPENSATION: Express provision for allowance of pay for words and figures does not permit the counting of punctuation marks and ditto marks.

June 3, 1937

OPINION No. 31



Hon. W. E. Freeland,
Jefferson City, Missouri.

Dear Senator:

We wish to acknowledge your letter of May 14th wherein you state as follows:

"The following is a copy of the letter referred to in our conversation:

"Thank you very much for copy of the opinion relative to the counting of words and figures in cases where the same is provided for pay for official services.

"I evidently did not make my intention clear in my first letter. There is another opinion that I had in mind when I wrote you, which has to do with the method of counting. Your opinion, which you sent me, refers to the fact that certain statutes had no provision for the count of figures. The opinion which you sent me relates to these statutes which have no such provisions.

"What I would like to have is the opinion which deals with the method of counting figures, punctuation marks and ditto marks where the statute has express provision allowing pay for words and figures. It is possible that this opinion may have been delivered before you became Attorney-General, but I believe, if my memory of the press report is correct, this also was written by you. The news report said that

the ruling was that each figure and each punctuation mark should count as a word, which seems to be the correct interpretation, since the Arabic symbol really is an abbreviation for a word, and the same is also true of each punctuation mark. If not too much trouble, would appreciate it if you could give me a copy of this opinion."

The precise question is "the method of counting figures, punctuation marks and ditto marks where the statute has express provision allowing pay for words and figures."

We have searched our records and fail to find an opinion upon the specific question raised.

In an opinion rendered by this department under date of October 21, 1933, to Mr. Homer Rinehart, Prosecuting Attorney, a copy of which is enclosed, the question was raised whether a County Clerk could charge for ditto marks used in making up the tax books at the rate prescribed in the statute of "10¢ per 100 words and figures" (Section 9877, Laws of Missouri, 1933, page 422.).

Section 9978, R. S. Mo. 1929, provides that the use of ditto marks is to be given the same effect as though the matter was written out in full, and since the statute prescribing the above rate of pay was part of the same article and chapter, it was held that ditto marks could be charged for at the statutory rate.

However, where a statute provides pay for words and figures and has no relation to the above statute providing that the use of ditto marks be given the same effect as though the matter was written out, a different conclusion is reached.

25 C. J. 1122, defines the word "figure" as

"The numerical character by which a number is expressed or written. The term has been held not to include punctuation marks."

In the case of *In re Murtaugh*, 71 Misc. 513, 128 N. Y. Supp. 850, l. c. 851, the Court in defining the term "figure" in determining the compensation of a stenographer, said:

"The word 'figure' does not include punctuation marks, and is not so intended in this section. If that had been the intention of the Legislature, it would have used the words 'each figure and character.' Bouvier's Law Dictionary defines the word 'figures' as 'numerals,' and numerals are letters or characters representing number. In 'Words and Phrases,' the title 'Figures' contains no reference to punctuation marks, which are treated under another title. Punctuation, in writing and printing, is a pointing off or separation of one part from another by arbitrary marks; a division of a composition into sentences. So says the Century Dictionary."

In the case of *Walsh v. Jackson*, 81 Pac. 258, 33 Colo. 454, l. c. 457, the Court in construing a statute providing that the stenographer transcribing the shorthand notes of the testimony should be allowed not exceeding 20 cents per folio of 100 words, said:

"It is so clear that the compensation of the stenographer is to be determined by the number of words transcribed, and not by the number of punctuation marks * * *, that it is not necessary to enter upon a dissertation on the subject."

From the foregoing, we are of the opinion that where the statute has an express provision allowing pay for words and figures, the same does not permit the counting of

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punctuation marks and ditto marks, but would, of course, include the counting of figures because expressly included.

Yours very truly,

MAX WASSERMAN,
Assistant Attorney General.

APPROVED:

J. E. TAYLOR,
(Acting) Attorney General.

MW:HR