the section 13 of chapter 117 of the Acts of 1937, be entitled
to the payment of the fees in question. It will be noted that
my opinion is in keeping with the conclusion expressed by a
predecessor in this office and reported in the official opinions
of the Attorney-General, 1894-1896, pp. 4-5, dated January
4, 1895.

UNEMPLOYMENT COMPENSATION, DEPARTMENT OF:
Payment of fees of county clerks and sheriffs for serving
writs, warrants and other processes out of the adminis-
trative funds of the Unemployment Compensation Di-
vision.

July 30, 1938.

Mr. Clarence A. Jackson, Director,
Unemployment Compensation Division,
Department of Treasury,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Sir:

I have before me your request that an official opinion issue
with respect to the payment of fees by the Unemployment
Compensation Division to county clerks and to sheriffs for
serving writs, warrants and other processes issued by that
division. These questions will be answered in the order in
which you have presented them.

"1. Are funds available from sources within the
state for the payment of such fees?"

It is understood that the foregoing question has reference
to the existence or non-existence of an appropriation made by
the General Assembly specifically designed for the payment
of such fees, in contrast to funds available to the Unemploy-
ment Compensation Division itself. Please be advised that
chapter 114 of the Indiana Acts of 1937 (par. 518 to 600)
does not make any specific appropriation for the payment of
fees to county clerks or to sheriffs for such services. There
are no funds available for the payment of fees to clerks and
sheriffs for serving processes issued by the Unemployment
Compensation Division with the exception of the funds avail-
able for the administration of the Unemployment Compensa-
tion Act,
"2. Are such fees chargeable under the laws of the state against the office of the Attorney-General or any other state agency,"

I must respond to your second inquiry in the negative. There is no statute of the State of Indiana which indicates that such fees are to be paid either by the department of law, which includes the office of the Attorney-General, or by any other specific department, division or agency of the state government.

"3. What is the practice of other state agencies with respect to such fees?"

Other departments and divisions of the state government make a practice of paying such items as administrative charges. Since the respective clerks and sheriffs actually perform the services in question and are entitled to receive compensation therefor as provided for by 10 Burns' Indiana Statutes, sections 49-1301 and 49-1311, this office is of the considered opinion that this practice is prudent and equitable.

"4. Are the fees mentioned herein or any others provided for in sections 49-1311 to 49-1318 Burns' Indiana Statutes of 1933 the property of the sheriff or do they belong to the county?"

It is my opinion that the sheriff is entitled to such fees. (See 10 Burns' Indiana Statutes 1933 Ed., sections 49-1301 and 49-1311.) Your attention is directed to the provisions of 10 Burns' Indiana Statutes Annotated 1933 Ed., 49-1311, the pertinent provisions of which are:

"Except that in the execution of all processes issued from any other county than that of his residence, the sheriff shall be entitled to charge and collect the same fees for like services in similar cases and which shall be his own."

This provision of the statute was construed to hold that where a sheriff of a county other than Marion received fee-bills for costs against residents of such counties issued by the Clerk of the Supreme Court of Indiana, that the fee belonged to the sheriff pursuant to the language above quoted.

The consideration of the fact that fees and costs differ essentially, and that fees were originally payable at the time that the service was rendered, is particularly pertinent to the question which you present where no court intervenes to determine the liability of the parties to the officers for such fees, and where, by virtue of a large volume of additional services, it would appear that the determination of the person primarily liable for the payment of such fees (if collection cannot be made from the other party) is important. “Whenever the General Assembly authorizes by new legislation the imposition and collection by a public officer of new and additional fees for the discharge of new and additional duties, * * * such fees * * * when imposed and collected, belong to and are the property of such public officer, unless the law-making power has clearly indicated, in such legislation, that such fees shall be applied in a different way, or to a different purpose.”

Henderson v. The State, ex rel. Baldwin, Atty. Gen., 96 Ind. 437 at 441.

“5. Are these charges proper administration charges to be paid out of administrative funds?”

Since the services in question are performed by an independent official as an integral part of the administration and enforcement of the Act in question, the payment for such services is a proper administrative charge and should be disbursed out of such funds as are set aside for the administration of the Unemployment Compensation Act.

TAX COMMISSION, STATE: Construction of section 15, Chapter 34 of Acts of 1937. Flood Control District, who may make levy to cover administration expense.

August 4, 1938.

Hon. Philip Zoercher,
Chairman, State Board of Tax Commissioners,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you state that the question has been presented to your board by the Board of