

salaries and increments therein within the limits of appropriations available therefor, and subject, as above stated, to the approval of the Attorney General.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General,*

By: THEODORE BACKES,  
*Deputy Attorney General.*

JULY 20, 1949.

HON. I. GRANT SCOTT,  
*Clerk of the Superior Court,*  
State House Annex.

FORMAL OPINION—1949. No. 78.

DEAR SIR:

Your letter of July 7, 1949, requesting an opinion as to the costs allowable on the entry of a judgment on Bond and Warrant and the amount thereof pursuant to Chapter 193, P. L. 1949, is hereby acknowledged.

An examination and analysis of Section 8, Chapter 193, P. L. 1949, reveals the following language:

"Costs awarded to a party in any action, motion or proceeding in the Law Division of the Superior Court shall be as follows:

"For all proceedings down to and including final judgment when there has been a trial of an issue of fact, fifty dollars (\$50.00).

"Upon the entry of judgment final by default or upon consent or stipulation or admission or summary or by summary judgment or on dismissal, and on actions and proceedings to the moving party, forty dollars (\$40.00)."

The statute uses the word "awarded," rather than the word "taxed." The Standard Dictionary defines the word "award" as follows: "To decide to be properly or rightly due as between or among contestants."

The costs, though awarded, would not be automatically taxed by the Clerk of the Court, but would be so if the party to whom they were awarded would make a request to have same taxed. The amount to be taxed by the Clerk clearly comes within the section of the statute which states "upon the entry of judgment final by default or upon consent . . . forty dollars (\$40.00); a judgment on Bond and Warrant is a final judgment entered by consent of the defendant.

It is my opinion that upon request of the moving party who has entered judgment on Bond and Warrant, you are authorized to tax the sum of forty dollars (\$40.00) which has been awarded to said party pursuant to the statute above referred to.

Respectfully submitted,

THEODORE D. PARSONS,  
*Attorney General,*

By: OSIE M. SILBER,  
*Deputy Attorney General.*