

11/11/33

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COUNTY WARRANTS Received by Circuit Clerk and Ex-officio Recorder for his salary, though unpaid and protested, cannot be offset by him against Recorder's fees collected by him and to be paid monthly to county treasurer  
January 27th, 1933

FILED  
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Hon. E. W. Allisch,  
Prosecuting Attorney, Phelps County,  
Rolla, Missouri.

Dear Sir:

Your letter of January 12, 1933, contains the following inquiry and request:

"Now the question I request your opinion is this: Can the Circuit Clerk and Ex-Officio Recorder turn in to the county court or treasury the unpaid salary warrants which he holds against the county and thereby butt accounts with the Recorder's fees which he has collected but has not as yet turned in to the county? In other words, can he keep Recorder's fees to the amount in unpaid salary warrants which he holds and surrender the salary warrants to the county? It would be a transaction similar to turning the county warrants in as payment of county taxes."

In our opinion there is no legal authority for the Circuit Clerk and Ex-Officio Recorder of Deeds' offsetting recorder's fees collected by him for the county against his unpaid salary warrants. Sec. 11786, R. S. Mo. 1929, requires the Circuit Clerk who is ex-officio recorder of deeds to pay such fees monthly to the county, and we can find no statute permitting him to apply such fees so collected upon his unpaid protested county warrants received by him for his monthly salary.

Section 9911, R.S. 1929, does permit legal holders of warrants to apply them in payment of county taxes for the same year as that of the warrants' issue

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but that is the only authority given by law to make such offsets, and it cannot be extended beyond its express terms to other matters. So the law is written, and it must, of course, be followed.

Respectfully yours,

Denton Dunn,  
Assistant Attorney-General

Approved:

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Roy McKittrick,  
Attorney-General