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(Opinion relating to fees of sheriffs for services rendered.)

Jefferson City, Missouri  
January 23, 1934.

Mr. Ray Crow  
Prosecuting Attorney of Chariton County  
Ketyeville, Missouri

Dear Sir:

This department acknowledges receipt of your letter of date January 15th, 1934, in which you state and inquire as follows:

"The sheriff of this county held a warrant, duly issued by a Justice of the Peace, for the arrest of a person living in St. Louis. The sheriff went to St. Louis without an official character of the Justice attached to the warrant, or without having the warrant "ok'ed" by a Justice of that county. The man was arrested by the police and turned over to the sheriff who brought him back to this county. No objection was raised by the arrested man as to the manner of arrest or to returning to this county. The warrant was read to him (evidently a second time) after he was in this county. Is the sheriff entitled to mileage for himself and prisoner beyond the confines of his own county? The charge in the warrant was for a misdemeanor. Thanking you in advance for your opinion, I am,"

In State ex. rel. v. Brown 146 Mo. 1. c. 406, the Court said:

"It is well settled that no officer is entitled to fees of any kind unless provided for by statute, and being solely of statutory right, statutes allowing the same must be strictly construed."

In *Gannon v Lafayette County* 76 No. 675 the Court said:

"The right of a public officer to fees is derived from the statute. He is entitled to no fees for services he may perform, as such officer, unless the statute gives it. When the statute fails to provide a fee for services, he is required to perform, as a public officer, he has no claim upon the State for compensation for such service."

The question then is by what statute is the sheriff under the facts outlined in your request entitled to mileage claimed.

Section 11791 Revised Statute 1929, reads in part as follows:

"The sheriff or other officer who shall take a person, charged with a criminal offense, from the county in which the offender is apprehended to that in which the offense was committed or who may remove a prisoner from one county to another for any cause authorized by law, or who shall have in custody or under his charge any person undergoing an examination preparatory to his commitment more than one day for transporting, safe-keeping and maintaining any such person, shall be allowed by the court, having cognizance of the offense, one dollar and twenty-five cents per day for every day he may have such person under his charge, when the number of days shall exceed one, and five cents per mile for every mile necessarily traveled in going to and returning from one county to another, etc. .... One dollar and twenty-five cents per day, mileage same as officer, shall be allowed for board and all other expenses of such prisoner."

It is apparent that the above and foregoing provision of the statute entitles the sheriff to mileage fees of five cents per mile for himself and his prisoner, also one dollar and twenty-five cents for each day for himself and prisoner if the number of days exceed one. And this department so rules. We further rule that the requirement with reference to the warrant being countersigned by a Justice of the peace of the county where the prisoner was apprehended, has no application here.

Respectfully submitted,

*H W Boone*

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Assistant Attorney General

APPROVED:

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Attorney General