

REWARDS:) Officers without this State entitled to a
) reward offered by officials of Missouri
SHERIFF:) for fugitives from this State.

October 14, 1935.

10-31



Mr. Woodson Cockrill
Secretary to the Governor
Jefferson City, Missouri

Dear Sir:

This is to acknowledge receipt of your letter of September 27, 1935, in which you request the opinion of this Department as to whether a reward may be legally paid to an officer of another state for arresting a fugitive from the State of Missouri. We quote from your letter as follows:

"I am attaching hereto an application for a reward for the apprehension of a fugitive from justice. Am also attaching a copy of the reward that was issued.

"We have received an opinion from your office concerning payment of rewards to peace officers of the State, and I respectfully request that you furnish me an opinion as to whether or not this reward should be paid. You will note the applicant for this reward is the Sheriff of Perry County, Illinois."

We have heretofore, as stated in your letter, rendered an opinion to you "that it is against the public policy of the State of Missouri for public officials to

receive a reward for the performance of their official duties and for which they receive fixed fees and salaries."

The above is undoubtedly the law and the policy in most all of the states of the Union.

There is a distinct difference, however, between the performance of an act performed within the scope of the officer's official duty and an act performed without the scope of his official duty.

In 54 C. J., 788, Section 32, it is said:

"When an officer performs the services for which a reward is offered by acts outside the scope and line of duty, there is no rule of public policy which forbids his claiming the reward, hence he is entitled to it. Therefore, as they are without the scope of his duty he may ordinarily claim a reward for acts done outside of his territorial jurisdictions, such as those performed in another state, county, or outside of his city; or for the arrest of fugitives from another state."

In the case of Smith v. Vernon County, 188 Mo. 501, one of the early cases in Missouri on the subject, it was held that where an officer without the State of Missouri arrested a fugitive from this State, the court found that the mere fact that he was a policeman of another state, who in that state arrested a person for whose apprehension a county court in Missouri had offered a reward, was not deprived of his right to recover the reward by the fact of his official position. The court said he was under no legal duty to this State to make the arrest and that he could not receive compensation from

that state for it. His right to the reward is not to be defeated on the ground that a public officer can receive no extra statutory compensation for the performance of a legal duty.

Also, the Springfield Court of Appeals in the case of Davis v. Millsap, 159 Mo. App. 167, l. c. 169, said the following:

"From an early day it has been established, and continues to this time, that an agreement to pay money to a sheriff or other public officer for doing what he ought to do, is void and against public policy. (34 Cyc. 753; Kick v. Merry, 23 Mo. 72; Smith v. Vernon Co., 188 Mo. 501, 87 S. W. 949; Bank v. Edmund, 81 N. E. 641, 11 L. R. A., N. S. 1170.)

"On the other hand, the law has never declared that under no circumstances is an officer entitled to the reward. (Smith v. Vernon Co., supra; Cornwell v. St. Louis Transit Co., 100 Mo. App. 258, 73 S. W. 305; Gregg v. Pierce, 53 Barb. 387; Hogan v. Stophlet, 179 Ill. 150, 44 L. R. A. 809, 53 N. E. 604.)

"The rule is correctly declared in Cornwell v. Transit Co., supra, as follows: 'Public policy forbids an officer from claiming a reward for performance of any act which is by law made part of his duty, but if an officer performs an act or renders extraordinary services, alike beyond and outside the limit of his ordinary official duty and for which a reward has been offered, he becomes entitled

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to such additional remuneration and may lawfully make claim thereto without violation of the policy of the law.'

"In Meechem on Public Officers, section 885, it is said: 'Where a sheriff in reliance upon the offer of a reward, searches for a criminal who has escaped from his county, and captures him in another county, or follows a fugitive from justice and apprehends him in another state, he is entitled to the reward.'" (Italics ours)

It is, therefore, our opinion that under the facts as stated in the exhibits attached to your request for the opinion, the Sheriff of Perry County, Illinois, is entitled to the reward offered by the officials of this State.

We are returning herewith the exhibits.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

CRH:EG
Encs.