

SHERIFFS: Sheriff's fees for custody of prisoner when transferring him within Randolph County from one Circuit Court to another.

October 2, 1935. 10-2

Honorable Forrest Smith
State Auditor
Jefferson City, Missouri



Dear Sir:

We acknowledge your request for an opinion dated September 17, 1935, which is as follows:

"The Deputy Sheriff of Randolph County arrests a defendant at Moberly, Missouri, and holds said defendant in jail or a holdover in the court house at Moberly used to hold persons on trial for two days or more and then said defenants are given a preliminary hearing in Moberly and are bound over to await the action of the Circuit Court and are committed to jail at Huntsville upon a commitment issued by the Justice of the Peace, so we desire an opinion as to whether or not the sheriff is entitled to the sum of \$1.25 per day for such custody when the number of days exceeds one, as provided by Section 11791, R. S. Mo. 1929."

Section 11791 R. S. Mo. 1929, provides 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 morethan one day for trans-

porting, safekeeping 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, and the guard employed, who shall in no event exceed the number allowed the sheriff, marshal or other officer in transporting convicts to the penitentiary, shall be allowed the same compensation as the officer. One dollar and twenty-five cents per day, mileage same as officer, shall be allowed for board and all other expenses of each prisoner. No compensation shall be allowed under this section for taking the prisoner or prisoners from one place to another in the same county, excepting in counties which have two or more courts with general criminal jurisdiction. In such counties the sheriff shall have the same fees for conveying prisoners from the jail to place of trial as are allowed for conveying prisoners in like cases from one county to another, and the expenses incurred in transporting prisoners from one county to another, occasioned by the insufficiency of the county jail or threatened mob violence, shall be paid by the county in which such case may have originated.
* * * *

There are two courts of general jurisdiction in Randolph County, one in Moberly and one at Huntsville.

CONCLUSION.

Construing the above section of law, we are of the opinion that the sheriff of Randolph County is entitled

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to \$1.25 per day for each day said prisoner is in his custody, so long as the prisoner be in custody over one day.

Respectfully submitted

WM. ORR SAWYERS
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General.

WOS:H