

SHERIFFS: Misappropriation of money constitutes embezzlement.

August 2, 1939

Mr. G. Logan Marr  
Prosecuting Attorney  
Morgan County  
Versailles, Missouri



Dear Sir:

We have your request with reference to Sheriff A. S. Ball receiving \$1706.00 of funds from his predecessor in office, and converting said money to his own use.

This conversion of public funds which came to him as bailee, or which were received by him by virtue of his office as sheriff, is a criminal offense under Section 4086, R. S. Mo. 1929.

Since there are several different ways in which this money could have been embezzled, it may be well to prepare an information or indictment in several counts. State v. Bouslog, 266 Mo. 73, 81.

As to the sufficiency of indictments, you may look at the following authorities: State v. Martin, 230 Mo. 680; State v. Manley, 107 Mo. 364; State v. Skinner, 210 Mo. 373; State v. Howell, 296 S. W. 370, 317 Mo. 330.

As to elements of the offense and the official character of a person converting it, see State v. Noland, 111 Mo. 473.

As to the admissibility of certain evidence, namely, the conclusion of witnesses from the examination

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of books, see State v. Matkins, 34 S. W. (2d) 1; State v. Colson, 30 S. W. (2d) 59.

As to money embezzled by means of checks, the above authorities deal with that question.

I call your attention to the fact that intent is not an element of the crime (State v. Martin, supra), and the time of conversion is immaterial (State v. Findley, 101 Mo. 217, 222).

I think the above and foregoing outline will be of sufficient help to you in the trial of this case to fully answer your request for an opinion.

It is, therefore, the opinion of this office that said sheriff should be prosecuted for embezzlement of funds which have come to him by virtue of his office.

Yours very truly

FRANKLIN E. REAGAN  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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