

JURORS:  
CIVIL COSTS:  
TAXATION OF JURORS' FEES:

Section 494.160, RSMo 1959, governs the taxing of jurors' fees in civil cases in St. Louis County. Section 497.185 has no application whatever to St. Louis County.

OPIN. NO. 177.

May 21, 1962



Honorable Norman H. Anderson  
Prosecuting Attorney  
St. Louis County  
Court House  
Clayton, Missouri

Dear Mr. Anderson:

You have requested the opinion of this office as to whether the taxing of jury fees as costs in civil cases in St. Louis County is governed by Section 497.185, RSMo 1959, rather than by Section 494.160, RSMo 1959, which is presently being followed in St. Louis County.

Chapter 497 of the Revised Statutes formerly applied to all counties of 450,000 to 800,000 inhabitants. Prior to the 1960 census, only Jackson County came within this classification. The chapter provides that all grand and petit jurors for the circuit and criminal courts shall be selected as provided therein. Section 497.185 was enacted in 1959 by the 70th General Assembly (House Bill No. 556) specifically as an amendment to Chapter 497 and to be inserted as part thereof. It has no general application and is limited by its enactment to Chapter 497 and those counties which may come within such classification.

Chapter 496 formerly applied to counties of 250,000 to 450,000 inhabitants. Prior to the 1960 census, only St. Louis County came within this classification. Under the 1960 census, effective July 1, 1961 (see Section 1.100, RSMo 1959), St. Louis County now has more than 700,000 but less than 800,000 inhabitants.

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Had there been no amendments to Chapters 496 and 497, Chapter 496 would no longer apply to St. Louis County, and on the contrary, Chapter 497 would in its entirety be applicable. However, by the terms of Senate Bill 258 enacted by the 71st General Assembly, Chapter 496 has been amended so that it now applies to all counties of more than 700,000 inhabitants, and Chapter 497 has been limited in its application to counties having a population of 450,000 to 700,000 inhabitants.

This is not the first time the General Assembly has amended the statutes governing the selection of juries in St. Louis and Jackson Counties in order to prevent a change which would have otherwise resulted from an increase in population. Chapter 496 (originally enacted in 1933, and subsequently amended) formerly governed the selection of juries in counties with 200,000 to 400,000 inhabitants. Under both the 1930 and 1940 census, St. Louis County -- and only St. Louis County -- came within this classification. Chapter 497 at that time applied to juries in counties with 400,000 to 800,000 inhabitants, and therefore had been limited to Jackson County. Under the 1950 census, the population of St. Louis County was 406,349. The 66th General Assembly thereupon amended Chapter 496 to make it still applicable to St. Louis County (Laws 1951, p. 561) and amended Chapter 497 to assure that it would still be solely applicable to Jackson County (Laws 1951, p. 562). This legislative history makes clear the intent of the Legislature that St. Louis County should not be governed by Chapter 497. The evident purpose of Senate Bill 258 was to preserve the status quo theretofore existing in the selection and service of jurors in St. Louis and Jackson counties.

In our opinion, Chapter 497 has no application whatever to St. Louis County in view of the enactment of Senate Bill 258. Inasmuch as said chapter is limited to counties whose population does not exceed 700,000, it cannot now apply to St. Louis County. Section 497.185, which is an integral part of Chapter 497 and therefore can be no broader than the scope of the chapter, is therefore presently applicable only to Jackson County. Section 497.185 provides inter alia for taxing and collecting as other costs "all fees allowed to the jurors who serve in civil cases." In view of the conclusion we have reached, it is unnecessary to express any opinion as to the construction and effect of this section.

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Chapter 494 of the Revised Statutes contains general provisions relating to juries. This chapter applies to St. Louis County except only to the extent that the provisions of Chapter 496 are inconsistent therewith. There is no provision whatever in Chapter 496 relating to the taxing of jury fees as costs. Hence, Section 494.160 which provides that whenever any jury shall serve in the trial of any case other than criminal there shall be taxed and collected as costs the sum of \$12 as jury fees applies to St. Louis County and governs the amount which may be taxed and collected as costs as jury fees in civil cases.

CONCLUSION

It is the opinion of this office that taxing of jury fees in civil cases in St. Louis County is governed by the provisions of Section 494.160, RSMo 1959, and that Section 497.185 has no application whatever to St. Louis County.

This opinion, which I hereby approve, was prepared by my assistant, Joseph Nessenfeld.

Very truly yours,

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THOMAS F. EAGLETON  
Attorney General

JN:mc