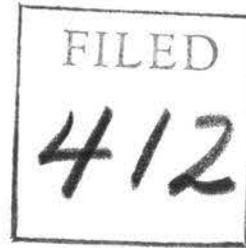


December 19, 1967



OPINION NO. 412
(Answered by Letter-Duff)

Honorable James L. Paul
Prosecuting Attorney
McDonald County
Pineville, Missouri 64856

Dear Mr. Paul:

Please find enclosed Attorney General's Opinion No. 52 issued to the Honorable Walter R. Lethem, Jr., on January 25, 1952. I think this opinion fully answers the questions concerning Sections 56.120 and 56.130, RSMo 1959, that you raised in your letter of October 11, 1967.

A special prosecutor is limited to the fee provided by law to be taxed and paid as costs in all cases in which he is employed. Section 56.130, RSMo 1959. He cannot be paid from public funds. The reasoning in *State ex rel Harrison v. Patterson*, 152 Mo. App. 264, 132 S.W. 1183, applies here:

"It is well-settled law in this state that the right to compensation for the discharge of official duties is purely a creature of the statute, and that the statute which is claimed to confer that right must be strictly construed. The right of a public officer to compensation is derived from the statute and he is entitled to none for services he may perform as such officer, unless the

Honorable James L. Paul

statute gives it. . . . It is one thing to make a disabled or absent servant pay for substituted services out of his own pocket, and another and entirely different thing for the master to pay twice for the same service.'" Id. at 1185.

If you have any further questions we will be happy to consider them.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

DD:lch:fb

Enclosure