

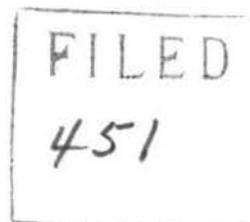
CIRCUIT CLERKS:
ST. LOUIS CITY:

The Clerk of the Circuit Court of the City of St. Louis has the discretionary power and authority to invest funds deposited in the registry of the court in the manner provided in Section 483.310, RSMo 1959, without any action by the General Assembly.

November 13, 1969

OPINION NO. 451

Honorable Richard J. Rabbitt, Member,
Missouri House of Representatives,
68th District
4340 Forest Park
St. Louis, Missouri 63108



Dear Representative Rabbitt:

This official opinion is issued in response to the request contained in your letter forwarding a letter from Mr. Joseph P. Roddy, Clerk of the Circuit Court, City of St. Louis.

The question concerns the legal right of the Circuit Clerk of the City of St. Louis to invest funds in his care. More specifically, as stated in Mr. Roddy's letter, the request arises from the following circumstances:

"Through the many years that preceded my administration, it was the accepted opinion of this office, that the office had no authority to invest the funds of the Court for interest, but simply held the money in escrow.

"It was further their opinion that the law applying to first class counties does not include authorization for the City of St. Louis. Because of this interpretation, it was and is my intention to have the enclosed bill introduced at the next session of the General Assembly.

"However, the question has arisen that we do not need the authorization of the General Assembly and can proceed immediately with in-

Honorable Richard J. Rabbitt

vestment of the funds for interest. We are requesting from you an opinion whether we have this authority to invest the funds for interest without going to the legislature. * * * "

We assume that the "law applying to first class counties" to which reference is made in Mr. Roddy's letter, is Section 483.310, RSMo 1959, which reads as follows:

"The circuit clerks in counties of the first class are hereby authorized and empowered to invest funds placed in the registry of the circuit court in savings deposits in banks carrying federal deposit insurance to the extent of the insurance * * * "

In a prior opinion of this office, i.e., Attorney General Opinion No. 59, dated October 9, 1946, issued to the Honorable David A. McMullan, a copy of which is enclosed, it was determined that under Section 8, Article VI, Missouri Constitution, and C.S.H.B. 476, 63rd General Assembly (now Chapter 48, RSMo 1959), the City of St. Louis is a county of the first class insofar as concerns the application of a statute requiring the payment of certain filing fees or deposits to the clerks of the circuit courts of first class counties. The opinion was rendered for the benefit of Walter H. Toberman, the Clerk of the Circuit Court of the City of St. Louis at that time.

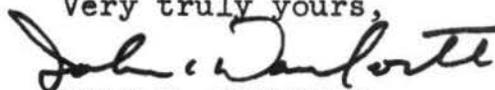
Another opinion of this office, i.e., Attorney General Opinion No. 120, dated September 8, 1966, a copy of which is enclosed, was rendered upon the request of Louise Grant Smith, Clerk of the Circuit Court of St. Louis County. The opinion concludes that the provisions of Section 483.310, RSMo 1959, supra, grant to the circuit clerk of a first class county the discretionary power and authority to invest funds deposited in the registry of the court in the manner provided for in this section. These prior opinions express the official view of this office with respect to the matters considered therein, and it is our opinion that they are applicable to the matter under consideration.

CONCLUSION

It is the opinion of this office that the Clerk of the Circuit Court of the City of St. Louis has the discretionary power and authority to invest funds deposited in the registry of the court in the manner provided in Section 483.310, RSMo 1959, without any action by the General Assembly.

The foregoing opinion, which I hereby approve, was prepared by my assistant John E. Park.

Very truly yours,



JOHN C. DANFORTH
Attorney General

Encls:
OP.59-46-McMullan
OP.120-66-Smith