

October 14, 1971

OPINION LETTER NO. 28
Answer by Letter - Park



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

Dear Mr. Paul:

This letter is written in response to your request for an opinion concerning refund of fees erroneously collected by the county recorder of deeds in connection with recording of deeds of trust.

There is no statute which expressly authorizes the refund of fees erroneously collected by recorders of deeds and we are not aware of any procedure which may be used to accomplish this. Under these circumstances the fees in question cannot be refunded. It is fundamental that no officer in this state can pay out the money of the state except pursuant to statutory authority authorizing and warranting such payment. See State ex rel. Bybee v. Hackmann, 276 Mo. 110, 116 (1918); Walker v. Linn County, 72 Mo. 650 (1880); State ex rel. Kresge Co. v. Howard, 208. S.W.2d 247 (1947).

Very truly yours,

JOHN C. DANFORTH
Attorney General