COSTS - State Highway Condemnation Cases.

12-3

November 30, 1935.

Mr. Wallace V. Coleman,
Clerk of the Circuit Court of
Jefferson County,
Hillsboro, Missouri.

FILED
17

Dear Sir:

A request for an opinion has been received from
you under date of October 29, 1935, such request being in
the following terms:

"Recently I was presented with a schedule per-
taining to proper charges and fees in State
Highway Condemnation cases.

This schedule was set up by Mr. Wilkie B. Cun-
ningham, Assistant Attorney for the State
Highway Department.

I agree with Mr. Cunningham on many of the
items of costs which he discusses in this form,
but with some of the items I differ.

I am enclosing the schedule as I received it
and I will appreciate an opinion from your
department as to the authority of Mr. Cunning-
ham's interpretation."

The memorandum which you sent us bears date of
August 1, 1935, and is addressed as a memorandum to Mr.
Stigall, and consists of seventeen mimeographed pages. We
have examined such memorandum and have checked the statutes
and cases cited therein and in our opinion such memorandum
shows every evidence of careful and thorough investigation
and preparation, and we find no material errors in the spe-
cific items of costs set out therein which would concern you
in your official capacity. Of course, under the statutes
Mr. Cunnyngham's rulings are not binding on circuit courts
or clerks thereof, as the Legal Department of the State High-

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way Commission is not your legal adviser, but, on the other
hand, neither is this Department, which is only authorized
by statute to give formal opinions to certain designated
officials of this State, of which a Clerk of the Circuit Court
is not one (R.S. Mo., 1929, Section 11274). Consequently, this
answer to your letter requesting an opinion on "the authority
of Mr. Cunnyngham's interpretation" must be accepted with this
qualification.

Very truly yours,

EDWARD H. MILLER
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General