

(SUPPLEMENTAL OPINION)

ELECTIONS:) No fees provided for services for proclamation or
SHERIFFS:) notice of election for Constitutional Convention
delegates.

February 27, 1943.



Hon. Arthur U. Goodman, Jr.,
Prosecuting Attorney
Kennett, Missouri

Dear Mr. Goodman:

The Attorney-General wishes to acknowledge receipt of your letter of February 19th relative to the fees of the Sheriff for his services rendered and the conduct of the election for the selection of delegates to the Constitutional Convention.

Sections 13411 and 13413, R. S. Mo. 1939, set out the fees to be allowed sheriffs of this State for their services. It will be seen from reading these two statutes that there is no provision made for the payment of fees to the sheriffs of the different counties for the issuance of a proclamation or notice of election which the sheriff is to make pursuant to a writ of election issued by the Governor to said sheriff. Furthermore, we have examined the revised statutes for any other sections which might provide for a fee to be allowed the sheriff for such service and nowhere are we able to locate any such provisions.

In the case of Nodaway County v. Kidder, 129 S. W. (2d) 857, we find the following statement:

"It is well established that a public officer claiming compensation for official duties performed must point out the statutes authorizing such payment."

In other words, it is necessary for an officer to show a statute authorizing payment of fees to him for his official duties in order that such fees be collected. This case has been cited

approvingly on several occasions and seems to be the rule in Missouri at this time.

There can be no doubt that it is the duty of the sheriff to make the proclamation required under Section 3 of Article XV of the Constitution of Missouri, even though no compensation is allowed under the statutes. In view of the holding in *Nodaway County v. Kidder*, supra, it is the opinion of this Department that the sheriff is entitled to no fees for his services which he renders in the issuing of a proclamation or notice of election pursuant to a writ of election issued to him by the Governor ordering an election for delegates to the Constitutional Convention.

Respectfully submitted,

JOHN S. PHILLIPS
Assistant Attorney-General

APPROVED:

ROY MCKITTRICK
Attorney-General

JSP:EG