

CIRCUIT CLERK - Must account for certain fees;
fees for jury script and for opening
and closing court.

November 1, 1935

11-7



Honorable Forrest Smith
Circuit Clerk and Ex-officio Recorder
Putnam County
Unionville, Missouri

Dear Sir:

We have your request of October 30,
1935 for an opinion as follows:

"Section 8766, Revised Statutes
of 1929 provide that the Circuit
Clerk shall receive \$1.50 as
compensation for his services
at each term of Court for is-
suing jury script.

"I also have a ruling from your
office that the Clerk shall re-
ceive \$.30 each for the order,
opening and closing Court.

"Is the Clerk entitled to these
fees above his regular salary
or should I collect them and pay
them over to the County Treasurer
in his report of fees?"

We refer you to Section 11786, Laws
No. 1933, p. 369:

"The aggregate amount of fees
that any clerk of the Circuit
Court under Articles 2 and 3 of
this Chapter shall be allowed
to retain for any one year's ser-

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vice shall not in any case exceed the amount hereinafter set out. * * * provided, that in any county wherein the clerk of the Circuit Court is ex-officio recorder of deeds, said offices shall be considered as one for the purpose of this section; provided, further, that clerks of the Circuit Court shall be allowed to retain, in addition to the fees allowed under this section, all fees earned by them in cases of change of venue from other counties; * "

Section 13, Article IX of the Constitution of Missouri, relating to fees of county and other officers, provides:

"The fees of no executive or ministerial officer of any county or municipality, exclusive of the salaries actually paid to his necessary deputies, shall exceed the sum of ten thousand dollars for any one year. Every such officer shall make return, quarterly, to the county court of all fees by him received, and of the salaries by him actually paid to his deputies or assistants, stating the same in detail, and verifying the same by his affidavit; and for any statement or omission in such return, contrary to truth, such officer shall be liable to the penalties of willful and corrupt perjury."

The above mandate of the Constitution is carried out by Section 11810, R. S. Mo. 1929, wherein it is made the duty of,

"Every clerk of a court of record in every county in this state shall

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make return quarterly to the county court of all fees by him received to date of return, from whom received and for what services, * * "

The fees provided for in Section 8766, R. S. No. 1929, wherein the circuit clerk is paid \$1.50 as compensation for issuing jury script, and the \$.30 fee allowed the clerk for opening and closing court, are fees that are earned by virtue of the office of clerk, and under both the Constitution and statutory provisions above cited, must be accounted for in the returns made to the county court.

It is, therefore, the opinion of this department that both the above named fees must be included in the circuit clerk's return, and the same accounted for as other fees of the office.

Yours very truly,

FRANKLIN E. REAGAN
Assistant Attorney General

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General

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