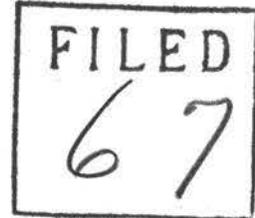


RECORDED OF DEEDS:

As a compensation for making and preserving direct and inverted indexes only a fee of ten cents shall be collected for each instrument affecting real estate recorded.

January 20, 1944



Honorable Robert V. Niedner
Prosecuting Attorney
of St. Charles County
Courthouse
St. Charles, Missouri

Dear Mr. Niedner:

This will acknowledge receipt of your letter of January 13, 1944, wherein you requested an opinion from this Department. Your opinion request read as follows:

"I have another request for an opinion concerning the matter in which the Recorder of Deeds in St. Charles County and the Office of the United States Attorney for the Eastern District, Eastern Division of Missouri, have been having a controversey. I want to say first that I very much appreciate your cooperative attitude in furnishing the opinions for which I have been asking, and I want to assure you that I have been making some study of the problems myself before requesting an opinion and have tried to restrict my requests for opinions to those situations where I do not find an adequate statutory or reported case law. The opinion for which I am asking in this letter is being requested by the Recorder of Deeds and concerns the interpretation of Section 13426 of the Revised Statutes of Missouri for 1939.

"Our Recorder of Deeds wants to know whether the provision of that section

"In addition to the above fee for recording deeds they shall be allowed for recording every such instrument relating to real estate a fee of 10¢ as a compensation for making and preserving direct and inverted indexes to every book containing deeds affecting real estate.

Honorable Robert V. Niedner

January 20, 1944

means that whether there are 2 parties or 40 parties to a deed he is entitled only to 10¢ for the work of indexing involved in recording the entire deed, or whether under that section he is entitled to 10¢ per name for the indexing.

"A great many deeds have been submitted for recording which bear as many as 45 signatures to which the United States of America is a party and land owners in this County are the other parties. It has been the long standing practice of the Office of the Recorder of Deeds to charge 10¢ per name for indexing so that the cost of indexing the ordinary instrument in which there are 2 parties would be 20¢. In the case of the deeds in question, however, the charge for indexing that was made was around \$4.50 and the United States Attorney's Office objected and insisted on wanting to pay merely 10¢ for the entire amount of indexing involved. I have felt also that the Recorder should be entitled to 10¢ for making each index. However, it seems to me that Section 13426 is somewhat ambiguous on this point. Would you please advise us of what your office thinks about this."

Section 13426 R. S. Mo. 1939, reads as follows:

"Recorders shall be allowed fees for their services as follows:

For recording every deed of instrument,
for every hundred words.....\$0.10
In addition to the above fee for recording
deeds, they shall be allowed for recording
every such instrument relating to real
estate, a fee of ten cents, as a compensa-
tion for making and preserving direct and
inverted indexes to every book containing
deeds affecting real estate.

For every certificate and seal.....	.50
For recording a plat of survey, if not more than six courses.....	.40
For every course above six of the same	.02
For copies of plats, if not more than six courses.....	.40
For every course above six.....	.02

Honorable Robert V. Niedner

January 20, 1944

Now turning to the interpretation of that portion of Section 13426 R. S. Mo. 1939, which reads:

"In addition to the above fee for recording deeds, they shall be allowed for recording every such instrument relating to real estate, a fee of ten cents, as a compensation for making and preserving direct and inverted indexes to every book containing deeds affecting real estate."

It will be noted from reading the above portion supra, that the first sentence reads: "In addition to the above fee for recording deeds (comma)". Of course this portion is clear and not ambiguous. Then it will be noted that it is provided that: (meaning the Recorder of Deeds) "shall be allowed for recording every such instrument relating to real estate," this portion is clear and unambiguous and restricts the hereinafter fee specifically to instruments relating to real estate. Then it will be noted that; set off in commas, is the statement, "a fee of ten cents,". Applying the definition to the punctuation we quote from 15 C.J.S., page 246 as follows:

"COMMA. In punctuation, a 'comma' has been defined as a point (,) used to mark the smallest structural divisions of a sentence, or a rhetorical punctuation mark indicating the slightest possible separation in ideas or construction. 'Comma' has been compared with, and distinguished from, 'semi-colon.'"

Then following the comma after the word "cents" we find this statement: "as a compensation for making and preserving direct and inverted indexes to every book containing deeds affecting real estate."

It is our view in placing the correct interpretation upon the whole portion above set forth, taken from Section 13426 R. S. Mo. 1939, that under the rules of statutory construction we must give every word its usual and ordinary meaning and read the whole paragraph together in order to arrive at the intent and meaning of said portion of the statutes.

111 S. W. (2d) 513, 342 Mo. 75;

"Every word of statutes must be given some meaning if possible."

Bess vs. Schult, 143 S. W. (2d) 486.

Honorable Robert V. Nidener

January 20, 1944

Therefore, we are driven to the conclusion that the fee of 10¢ is to be the total compensation provided to the Recorder of Deeds for making and preserving direct and inverted indexes in one or all of the several books where such instrument shall be indexed. We are mindful of the contention set forth in the opinion request but we are at loss to find any reason or rule of statutory construction which would enable us to hold that the phrase "a fee of ten cents" should be taken to mean that it should be applied to each individual name contained in the instrument relating to real estate, and we are constrained to hold that the fee of ten cents is a total compensation for preserving direct and inverted indexes for the particular piece of real estate described in the recorded instrument.

CONCLUSION

It is the opinion of this Department that under Section 13426 R. S. Mo. 1939, a Recorder of Deeds is entitled to charge only the sum of ten cents as a compensation for making and preserving direct and inverted indexes to every book containing deeds affecting real estate.

Respectfully submitted,

B. Richards Creech
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

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