

Mr. Howard C. Beck, Jr., City Auditor

(continued)

The question presented concerns only the propriety of the retention of 10% of the appearance fees by the sheriff. This retention is presumably a collection fee charged by the sheriff to the attorneys who enter their appearances.

Because of an amendment to the Constitution of the State of Maryland (Article 4, Section 44), the sheriff must now account to the Treasurer of Baltimore City for all fees and fines collected by his office, and the City is responsible for the operating expenses of the Sheriff's Office. Prior to that constitutional amendment, the Sheriff's Office was accountable to the State Treasurer's Office.

During the time when the Sheriff's Office of Baltimore City was accountable to the State Treasurer, the State Comptroller requested an opinion of the Attorney General's Office on the practice of the Register of Wills of Baltimore City retaining 10% of the appearance fees of attorneys for his personal benefit. The opinion rendered in response to that request was dated October 15, 1936, and is reported in 21 O.A.G. 564. In said opinion, the Attorney General advised the State Comptroller that it had been the universal practice in all the courts of Baltimore City for the clerks of the courts to retain 10% of all appearance fees, that such practice had been followed for at least 25 years and had received the tacit approval of the Supreme Bench of Baltimore City. Another 25 years have now passed and there has been no change to date in that practice.

The cited opinion of the Attorney General states in essence that the question of the legality of the deduction of 10% of appearance fees by the various clerks of the courts is a matter between the clerks and the lawyers who enter their appearances. This office concurs in the opinion of the Attorney General hereinabove referred to and, therefore, advises that the Sheriff's Office