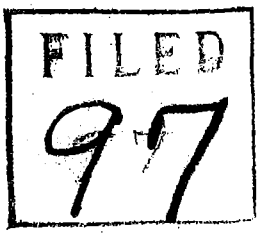
STATUTES: Construction of Section 137.131(3) Mo.RS Cum.
JURORS AND WITNESS' FEES: Supp. 1957.
MILEAGE:
assessors;



February 3, 1958

Honorable Robert E. Wilson
Prosecuting Attorney
Polk County
Bolivar, Missouri

Dear Sir:

This will acknowledge receipt of your request for an opinion relative to compensation and mileage of jurors and witnesses.

You specifically inquire if a juror sitting in a particular case, when said jury of which he is a member, is permitted to separate at the evening recess, with instructions to report for jury service on the following morning, to resume the trial of the same case, is entitled to mileage each day for traveling to and from the courthouse. You also make the same inquiry with respect to witnesses.

This Department, under date of March 23, 1938, rendered an opinion to the then prosecuting attorney of Greene County, Missouri, a copy of which we are enclosing, holding that a juror could only collect mileage for one trip from his home to the courthouse and return home from the time he was summoned until finally discharged.

The statute under construction at that time used similar language as the present statute insofar as it relates to the payment of such mileage. It provided a certain specified amount for every mile he may necessarily travel, going from his place of residence to the courthouse and returning to same.

In view of the holding in the foregoing opinion we believe the same ruling applicable in the instant case.

In reply to your second request, we are enclosing a copy of an opinion rendered by this Department under date of January 6, 1958, to the prosecuting attorney of Mississippi County, Missouri, which we believe in point, and fully answers your second inquiry

Your last request for an opinion reads:

"My final question deals with the meaning

> of section 137.131(3) Laws of 1957. This section provides that the circuit clerk and ex officio recorder of deeds in third class counties shall furnish the county assessor, on or before the 15th day of each month, a list of real estate transfers showing the names of the grantor and grantee, the consideration paid and a brief description of the real estate transferred. I have been requested to obtain a ruling from you as to whether the words 'a brief description' call for an exact description of the real estate showing all distances, beginning points, courses and other matters exactly as set out in the deed, or whether it would be sufficient in the case of farm land merely to describe it as being part of a certain quarter of a certain section, township and range, and in the case of town lots to describe the same as being part of a certain lot in a certain block in a certain addition."

Section 137.131, MoRS Cum. Supp. 1957, reads:

> "The circuit clerk and ex officio recorder of deeds of each county of the third class shall furnish the county assessor of his county, or the township assessor in counties with township organization, on or before the fifteenth day of each month, a true and complete list of all real estate transfers completed in the county or township during the preceding month. The list so furnished shall contain the following information relating to each transfer:
>
> "(1) The names of the grantor and grantee:
>
> "(2) The consideration paid;
>
> "(3) A brief description of the real estate transferred; and
>
> "(4) The book and page number where each deed is recorded." (Emphasis theirs.)

It is apparent that by reference to a brief description in the foregoing statute of the real estate transferred, that it does not mean a complete description as one would use in describing real estate in a general warranty deed. Had it been the legislative in-

tent to have the list contain a complete description it would have been unnecessary to make such references as to its containing a brief description, or the further requirement that it contain the page and book number where said transaction was recorded in the recorder of deeds' office.

In view of the facts, said list shall also include the page and book number of the recording, there can be no reason for any doubt or want of an accurate description, because one can always examine the public record wherein said transaction is recorded, and thereby find the description of said land by metes and bounds.

In Tokheim Oil Tank & Pump Co. v. Fentress, 33 F. (2d) 730, the court construed a statute of the state of Virginia relative to every sale, or contract for sale of goods and chattels, which statute contained one provision that said sale or contract shall contain among other things "a brief description of the goods and chattels and the terms of the reservation or condition." The court in holding a brief description sufficient, although it is not sufficient to enable one to identify the property without inquiry, held that it, at least, indicates the line of inquiry and furnishes the basis for investigation, said, at l.c. 732:

> "The 'brief description' of goods sold, required by Code Supp. Va. 1922, §5189, to be contained in conditional sales contract and filed as therein prescribed, is adequate, though it is not sufficient to enable one to identify the property without inquiry if it at least indicates the line of inquiry and furnishes basis for investigation."

Also, in Tilton v. H. M. Wade Manufacturing Co., 2 F. 2d 358, l.c. 359, the court, in construing the same statute referred to in the preceding decision, after referring to the phrase in the statute "brief description of the goods and chattels", held that it showed that in the matter of description there should necessarily be some latitude allowed.

We believe the foregoing decisions are analogous, and that in view of said decisions and the statute in question providing that said description must also show the page and book number wherein said transaction is duly recorded, we conclude that such description as referred to in your inquiry is sufficient.

Honorable Robert E. Wilson

CONCLUSION

We believe the holding in the enclosed opinion, rendered on March 23, 1938, is applicable to your request as to the mileage a juror and witness is entitled to receive under the circumstances stated in your request.

We are further of the opinion that the enclosed opinion, rendered under date of January 6, 1958, is applicable to your request as to the fee and mileage a juror is entitled to receive under stated circumstances.

Furthermore, that the list of real estate transfers, which the circuit clerk and ex officio recorder of deeds in third class counties is required to file with the county assessor, need not contain a complete detailed description of said real estate in view of the fact that said statute also requires the list, which is to be filed, to contain the page and book number wherein said real estate has been recorded.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Aubrey R. Hammett, Jr.

Yours very truly,

John M. Dalton
Attorney General

ARH:mw