

Mr. Howard C. Beck, Jr., City Auditor (cont'd)

The principal question raised by the correspondence seems to be whether or not the Sheriff of Baltimore City should be retaining a 6% fee for the collection of fees for attorneys. A paragraph in your letter to Mr. Deegan, where you say: "The difference between us appears to be merely the question as to whether the fees are or are not provided for by law. Apparently you feel they are not, we think that they are" presents the question involved. You ask our consideration of the subject and our advice.

From your report, it appears that the Sheriff of Baltimore City has been withholding, as a fee due to him, 6% of the appearance fees collected by him, for and on behalf of the State's Attorney of Baltimore City, but that he has failed to retain as his fee, 6% of the fees collected by him for other attorneys.

Article 87, Section 37C, Title "Sheriffs", Sub-title "Compensation and Duties", provides as follows:

"Every Sheriff shall collect all fines, costs, fees and charges arising out of both criminal and civil cases to which he may be entitled by law and shall exercise all the powers conferred upon him by law to enforce the collection of same, and shall at the end of each month during his term of office make a sworn statement of same to the County Commissioners of the County or to the Mayor and City Council of Baltimore City in such form as said Commissioners or City Treasurer of Baltimore City, as the case may be, may direct, and pay over the same to the Treasurer of the County or Treasurer of Baltimore City, as the case may be. * * * *"

Article 36, Section 29 (a), Code of Public General Laws, 1947 Supp., provides that the Sheriff shall be entitled to and receive the following fees, to wit:

" * * * * For collecting officers' fees, for every hundred, six per cent."

It is here pointed out that the statutory language does not use the words "Attorney" or "Attorneys", but rather the word "Officers", and the problem thus resolves itself into the question of the legislative intent in the use of that terminology in the statute.

There can be no question that the State's Attorney is an "Officer" within the meaning of the word, as used in Article 36, Section 29 (a), for certainly he is a