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FILE NO. S-555

FEES AND SALARIES:  
County Clerks

Honorable Jack Hoogasian  
State's Attorney of Lake County  
County Building  
Waukegan, Illinois 60085

Dear Mr. Hoogasian:

I have your letter of recent date wherein you state:

"Your opinion would be appreciated concerning the legality of the collection of the 7 cent fee due to the County Clerk as provided in Chapter 53, Section 35, Illinois Revised Statutes in the light of the new State Constitution."

Section 18 of "An Act concerning fees and salaries"

(Ill. Rev. Stat., 1972 Supp., ch. 53, par. 35) provides in pertinent part:

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"The fees of the county clerk in counties of the first and second class, shall be:

For computing and extending State and County tax, for each description of real estate and each person's personal tax, for each extension of each tax, 7 cents which includes the transcribing of the collector's books and applying the multiplier certified by the Department of Revenue.

For computing, extending and bringing forward, and adding to the current tax, the amount due for general taxes on lands and lots previously forfeited to the State, for each extension of each tax, 7 cents for each year."

The foregoing provision, which allows County Clerks a fee based upon the computation and extension of State and County taxes, is in conflict with sec. 9(a) of article VII of the Illinois Constitution of 1970, which reads as follows:

"(a) Compensation of officers and employees and the office expenses of units of local government shall not be paid from fees collected. Fees may be collected as provided by law and by ordinance and shall be deposited upon receipt with the treasurer of the unit. Fees shall not be based upon funds disbursed or collected, nor upon the levy or extension of taxes." (Emphasis added.)

The Constitution of Illinois is the supreme law of the State. (Sutter v. Peoples Gas Light & Coke Co., 284 Ill.

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634.) As the last sentence of section 9(a), supra, prohibits fees based upon the extension of taxes, the provision of section 18 of "An Act concerning fees and salaries", supra, which allows the County Clerk a fee based on the computation and extension of State and County taxes, is invalid.

Very truly yours,

A T T O R N E Y   G E N E R A L