A justice of the peace is expressly prohibited from receiving any remuneration or thing of value from any litigant in any pending case in his court except for fees and costs as provided by law. Under the provisions of Acts of 1957, Ch. 256, Secs. 1 to 3, as found in Burns' (1959 Supp.), Sections 10-3729 to 10-3731, any justice of the peace violating the above is subject to fine and imprisonment.

Therefore, in answer to your second question, it is my opinion that a justice of the peace in a township with a population of not more than twenty thousand may not charge or collect a fee from any litigant in any case pending in his court for "clerical help." However, I can see no prohibition against such justice employing a clerical assistant and paying such assistant from his own private income which may, of course, consist of fees collected and retained by him pursuant to law.

OFFICIAL OPINION NO. 41
August 13, 1959

Mr. Paul L. Myers, Chairman
State Board of Correction
210 State House
Indianapolis 4, Indiana

Dear Mr. Myers:

I am in receipt of your recent letter requesting an Official Opinion on the following question:

"Did the General Assembly intend that Chapter 265 of the Acts of 1959 should apply only to chief adult probation officers, or did the General Assembly intend that said Act, by use of the words 'any adult probation officer,' should apply to both the chief and assistant adult probation officers?"

As stated in your letter, prior to the enactment of Chapter 265 of the Acts of 1959, the provisions controlling the pay for adult probation officers were contained in Acts of 1951, Ch. 316, Sections 1 and 2, as found in Burns' (1956 Repl.), Sections 9-2214d and 9-2214e. With respect to the salary of the
chief adult probation officer, Burns' 9-2214d, supra, reads as follows:

"The maximum salary of any chief adult probation officer, regardless of the court to which he is attached, shall not be more than fifty percent [50%] of the salary of the circuit court judge of the county in which the officer is employed."

Burns' 9-2214e, supra, dealing with the salary of an assistant adult probation officer, reads as follows:

"The maximum salary of the assistant adult probation officer, regardless of the court to which he is attached, shall be forty percent [40%] of the salary of the circuit court judge of the county in which he is employed."

Both of the above sections of the 1951 Act established maximum salaries for adult probation officers. The 1959 Legislature by Acts of 1959, Ch. 265, Sec. 1, as found in Burns' (1959 Supp.), Section 9-2214k, prescribes the minimum salary of any adult probation officer without specifically designating whether the minimum now established is to apply either to the chief adult probation officer or the assistant adult probation officer. It is relative to this problem that you have requested clarification by way of an Official Opinion.

The title of the 1959 Act, as set forth in your letter, reads as follows:

"An Act to amend an Act entitled 'An Act concerning the salaries of adult probation officers, assistant adult probation officers, and clerical assistants in adult probation offices, and declaring an emergency,' approved March 8, 1951, by adding a new and additional section thereto to be numbered section 1a." (Our emphasis)

The 1959 Act itself, being Burns' 9-2214k, supra, insofar as it is applicable, reads as follows:

"(1) The salary paid to any adult probation officer may be paid either on an annual or a per diem basis.

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"(2) The minimum salary of any adult probation officer, regardless of the court to which he is attached, shall not be less than four thousand dollars per year. If the adult probation officer is employed on a per diem basis, the per diem shall not be less than twenty dollars: Provided, That the total amount of per diem pay received by any adult probation officer in any one year shall not exceed the sum of four thousand dollars."

The emphasized portion of the above title calls attention to the fact that the 1959 Act adds to or supplements Section 1 of the 1951 Act. Section 1 of the 1951 Act, being Burns' 9-2214d, supra, applies only to the chief adult probation officers. Nothing in the 1959 Act indicates that it was the Legislature's intention to amend or supplement Section 2 of the 1951 Act as it applies to the salaries of assistant adult probation officers. It would seem then that the Legislature did not intend to disturb the existing provisions of Section 2 of the 1951 Act and intended only to supplement Section 1 of the 1951 Act by adding Section 1a to provide and establish a minimum for the salaries of chief adult probation officers.

Therefore, it is my opinion that the phrase "any adult probation officer" as used in the 1959 Act refers only to the chief adult probation officer and does not disturb the provisions of Section 2 of Ch. 316 of the Acts of 1951, supra, as it pertains to the salary of an assistant adult probation officer.

OFFICIAL OPINION NO. 42
August 14, 1959

Honorable Charles W. Kirk, Jr.
State Representative, Floyd County
213 East Spring Street
New Albany, Indiana

Dear Representative Kirk:

You have requested my Official Opinion concerning salaries paid to prosecuting attorneys by counties. Your letter making this request declares:

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