



March 4, 1970

OPINION LETTER NO. 204

Honorable James A. Noland, Jr.
Senator, 33rd District
Osage Beach, Missouri 65065

Dear Senator Noland:

This letter is in answer to your opinion request in which you inquire concerning Senate Bill 13 of the 75th General Assembly. More specifically, your question is stated as follows:

"However, my question is whether or not the bill was so amended in its passage as to change the original intent of the bill, thus bringing about a salary decrease rather than a salary increase for the county clerks in 4th class counties. I am informed that this is the effect in certain of the 4th class counties. The bill might be unconstitutional."

As you are aware, we have issued Opinion No. 409, Holman, 10/9/69; Opinion No. 433, Holman, 10/9/69; and Opinion No. 87, Parker, 1/9/70, with respect to questions concerning Senate Bill 13. We have enclosed copies of these opinions.

The portion of Senate Bill 13 about which you are principally concerned relates to fees for fish and game licenses and permits and our holding that the county clerks of counties of the fourth class are limited by the provisions of the bill to a salary of \$5,500 including all fees whether for fish and game licenses or otherwise.

It is also our understanding that your question relates to the amendments during passage and to the title of the bill. Specifically, whether or not there is a violation of Section 21 or Section 23 of Article III of the Missouri Constitution.

Section 21 of Article III states in full as follows:

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"The style of the laws of this state shall be: 'Be it enacted by the General Assembly of the State of Missouri, as follows.' No law shall be passed except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose. Bills may originate in either house and may be amended or rejected by the other. Every bill shall be read by title on three different days in each house."

Section 23 of Article III states:

"No bill shall contain more than one subject which shall be clearly expressed in its title, except bills enacted under the third exception in section 37 of this article and general appropriation bills, which may embrace the various subjects and accounts for which moneys are appropriated."

We will not quote the bill provisions in its progression through the legislature. However, we will refer to the caption and context.

Senate Bill No. 13 was originally introduced with the title "AN ACT Relating to the compensation of county clerks in certain counties." That same title was used in the perfected bill, and the title in the Truly Agreed To and Finally Passed Conference Committee Substitute for House Substitute for Senate Bill No. 13 was

"AN ACT To repeal sections 50.810, 51.360 and 51.400, RSMo 1959, and sections 51.300 and 51.350, RSMo Supp. 1967, relating to the compensation of county clerks in second, third and fourth class counties, and to enact three new sections in lieu thereof, relating to the same subject, with effective dates and a termination date."

Thus, it appears that the original title was carried to and extended in the Act as finally passed. The subject as originally expressed was completely expressed in the Truly Agreed To and Finally Passed version. Turning next to the context of the bill in its progression through the legislature, the bill as originally introduced provided for additional compensation for county clerks of second, third and fourth classes for additional services performed in inspecting voting precincts in the county and other

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related duties. The perfected act was the same as when introduced.

The Truly Agreed To and Finally Passed CCSHS SB No. 13 retained the provisions of the perfected bill.

In final passage Senate Bill No. 13 also contained other repeals and enactments relating to such county clerks. The most important of these changes was the amendment to Section 51.300, effective January 1, 1971, which sets schedules of fixed compensation for county clerks of the second, third and fourth class counties and provides that they pay fees received into the county treasury. Fees for the issuance of fish and game licenses or permits were excepted. However, insofar as county clerks of the fourth class counties are concerned, the act specifically provides that all fees shall be considered in determining the maximum compensation which could not be in excess of \$5,500.

The mere generality of the title will not prevent the act from being valid where the title does not tend to cover up or obscure legislation which is in itself incongruous and which has no necessary or proper connection. State v. Mullinix, 301 Mo. 385, 390, 257 S.W. 121 (1923).

We resolve the doubt, if any, in favor of validity if the challenged legislation is germane and related directly or indirectly to the main subject. State v. Beckman, 353 Mo. 1015, 185 S.W.2d 810 (1945).

With respect to your inquiry concerning a possible change in the purpose of the bill, it is our view that no violation of Section 21 of Article III exists.

The courts must make every reasonable intendment to sustain the constitutionality of a statute, Allied Mutual Ins. Co. vs. Bell, 353 Mo. 891, 185 S.W.2d 4 (1945). The question of constitutionality under this section is whether the bill was so amended in its passage as to change its original purpose. This purpose means the general purpose of the bill, not the mere details through which and by which that purpose is manifested and effectuated. State v. Mason, 155 Mo. 486, 55 S.W. 636 (1900). Likewise, the validity of an act is not affected by the fact that its title was amended during the progress of enactment. State vs. Field, 119 Mo. 593, 24 S.W. 752 (1894).

In our view, whether or not the result of the act is to increase or decrease the compensation of such county clerks, the validity of the act would not be affected. We note that the title stated that the act related to the compensation of such county

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clerks and there was no attempt by the legislature to indicate whether such act increased or decreased such compensation.

Although Section 13 of Article VII of the Constitution states that the compensation of such officers shall not be increased during the term of office, there is nothing in that section which prevents a decrease in the salary of an officer during his term of office. Lycette v. Wolff, 45 Mo. App. 489 (1891). Likewise, there is nothing elsewhere in the Constitution or in our statutes which prevents a decrease in the compensation of such officers.

After viewing the legislation in its progression through the legislature and considering the title, the purpose, and the subject matter contained therein, we are of the conclusion that there is no constitutional invalidity in Senate Bill No. 13.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Encs: Opinion No. 409, Holman, 10/9/69
Opinion No. 433, Holman, 10/9/69
Opinion No. 87, Parker, 1/9/70