

COUNTY COURTS:

Pro-rating funds when amount collected
is less than that appropriated under
Section 9874 R.S.Mo.1929

February 4, 1933

Honorable Elbert L. Ford
Prosecuting Attorney
Kennett, Missouri

Dear Mr. Ford:

On January 23, 1933, this office answered your inquiry dated January 16, 1933, with reference to apportionment of collected revenues in your county to the various funds as apportioned and appropriated by the county court.

In addition to what was said in that letter we call your attention to Section 43, of Article 4, of the Constitution of the State of Missouri, and to the case of State ex rel v. Henderson, 160 Mo. 190, construing the above section of the Constitution, and which we think confirms our former opinion to you. We call your attention particularly to pages 211, 212, as follows:

"We can not agree with the learned counsel that the entire income of the State is mortgaged in favor of the various items named in section 43, article 4, of the Constitution, and that the full amount of the appropriation for each purpose must first be collected and set apart before any part of the next in order can be paid. No such construction has ever been given the Constitution or the laws appropriating taxes for various state and county purposes.

The Constitution does not say that the first money received into the Treasury shall be applied to meet the first items mentioned in said section 43, that no money shall be disbursed on account of a subsequent appropriation until a sufficient amount is accumulated in the Treasury to meet all prior appropriations.

Such a claim is inconsistent with our whole scheme of taxation. The moneys for the various institutions and the support of the civil list are never in the Treasury when the Legislature makes the appropriations.

Honorable Elbert L. Ford,

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A large part of the funds will not reach the Treasury for nearly two years after the appropriations are made. If the contention of the relators should be sustained, the mileage and per diem of the members of the Legislature, and of the various State officials would be postponed until two years after their passage".

No such interpretation has ever been put upon this section, but the practical construction has been that no such lien or priority was created thereby".

/ Very truly yours,

GILBERT LAMB
Assistant Attorney General

APPROVED:

Attorney General.

GL:LC