

September 13, 1933.

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Mr. Lon L. Jackson
County Treasurer
Monroe County
Paris, Missouri

Dear Sir:

We are in receipt of your letter of September 11th, with request for an opinion as to the amount of bond the county court of your county (Monroe) may require you to give as County Treasurer. In connection with your request you state the following:

"My bond was one hundred, forty thousand dollars (\$140,000.00) when I took office January 3, 1933. The County Court, on the advice of the Prosecuting Attorney, reduced the bond to one hundred thousand (\$100,000.00) April 6, 1933.

I bought a commercial bond this year and prefer to give a commercial bond in the future but my salary will not justify the cost of a bond for the amount stated.

I think my salary and the amount of my bond are out of proportion with those of the surrounding counties.

The amounts of my bond were based on Section 12133 (General Revenue Funds) and Section 9266 (School Funds) Revised Statutes of Missouri, 1929.

I will appreciate it if you will pass your opinion on this matter. Please address correspondence to me.

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The amount of the bond required to be given by you as County Treasurer is found in Section 12133 R. S. 1929, which section reads as follows:

"BOND TO BE GIVEN.--The person elected or appointed county treasurer under the provisions of this article shall, within ten days after his election or appointment as such, enter into bond to the county in a sum not less than twenty thousand dollars, to be fixed by the county court, and with such sureties, resident landholders of the county, as shall be approved by such court, conditioned for the faithful performance of the duties of his office."

The minimum amount of bond that you may give under this section is \$20,000. The statute fixes the minimum and the county court has no discretion in the matter and cannot go below that amount. By referring to the Bluebook we find that your County is not under township organization and, therefore, under Section 9266 R. S. 1929, the county treasurer is "the custodian of all moneys for school purposes belonging to the different districts, until paid out on warrants duly issued by order of the board of directors or to the treasurer of some town, city or consolidated school district, as authorized by this chapter, * * *."

And it is further provided in said section 9266, supra, referring to the county treasurer, that,

"* * *, he shall give a separate bond, with sufficient security, in double the probable amount of school moneys that shall come into his hands, payable to the State of Missouri, to be approved by the county court, conditioned for the faithful disbursement, according to law, all of such moneys as shall from time to time come into his hands; * * * * *."

The statute under this section has fixed the bond that the county treasurer shall give in double the probable amount of school moneys, etc., and the bond to be approved by the county court, and the only discretionary power allowed the county court is in estimating the probable amount of school moneys that shall come into the treasurer's hands. So, under both of these sections,

the county court in fixing these bonds has very little discretionary power and, of course, must follow the statutes.

We note from your letter that the bond required by your county court for the school moneys coming into your hands under Section 9266, supra, is much higher than the bond required of the county treasurer by the county courts of counties surrounding Monroe County. But this, of course, is no criterion or guide as to what your county court should do, and can be used only in the way of argument.

If there is any other question relative to this matter that you desire to inquire about, do not hesitate to write us again.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.

CRH:EG