

COUNTY CLERKS: COUNTY DEPUTIES:

Salaries of County Clerks and his deputy in Counties having a population of 7,500 and less than 10,000 persons.

February 2, 1935.



Hon. W. R. J. Hughes
Prosecuting Attorney
Iron County
Ironton, Missouri

Dear Sir:

This department is in receipt of your letter wherein you state in part as follows:

"The County Court of Iron County asks me to secure the opinion of your office as to the meaning of Section 11811, Laws of 1933, page 370 wherein is found the following:

"In counties having a population of 7,500 and less than 10,000 persons, the clerks shall be allowed to retain \$1100.00 for themselves, and shall be allowed to pay for deputies and assistants \$900.00!

"The question is whether the County Court, which by Section 11680, 1929, Statutes must approve the deputy, is empowered to fix the salary of said deputy or deputies at anything less than \$900.00 per annum. In other words has the County Court as much control over the deputies and their salaries in its own court as Laws of 1933 give it in regard to Circuit Clerk's deputies?

"I note that Section 11810, 1929, says:

"The county court shall at each regular session examine such statement, and may

examine any person as to the truth of same and allow all necessary clerk or deputy hire, not to exceed the amount allowed in the next succeeding section of this chapter for deputies or assistants, etc.'

"This section would indicate to me that the county court does control the purse strings of the county even so far as deputies to the county clerk are concerned. From the standpoint of reason it would seem that the county court which is responsible for the proper expenditure of the revenue of the county should have as much discretion in the matter of salary for a deputy in its own court where it can judge the necessity for extra help with some degree of accuracy as it is permitted in the matter of a deputy for the circuit court with whose work it is more or less unfamiliar.

"Ours is a very poor county and just now we are having a fight for our existence. The question of how much must be spent for deputy county clerk hire becomes therefore an important one. If we can reduce such salary it will mean much to our welfare as a county this year."

We believe you will find your question fully answered by a ruling of this department directed to Honorable F. M. Brady, Prosecuting Attorney, Benton County, Warsaw, Missouri, dated January 23, 1935, and signed by Roy McKittrick, Attorney General, and Wm. Orr Sawyers, Assistant Attorney General, a copy of which is herewith enclosed.

You will note that although the opinion above referred to deals with the salaries of County Clerks and their deputies in counties having more than eleven thousand five hundred (11,500) persons and less than twelve thousand five hundred (12,500) persons, yet the language therein contained, aside from the numbers and amounts referred to is the same as that part of the section which provides for the salary of County Clerks and their deputies in counties having a population of seven thousand five hundred (7,500) and less than ten thousand (10,000) persons.

The language is identical in the following form:

**** the clerks shall be allowed to retain *** for themselves, and shall be allowed to pay for deputies and assistants ***."

You call our attention to Section 11810, R. S. Mo. 1929, which provides in part as follows:

***** The county court shall at each regular session examine such statement, and may examine any person as to the truth of the same, and allow all necessary clerk or deputy hire, not exceeding the amount allowed in the next succeeding section of this chapter for deputies or assistants, *****."

The county court is responsible for the proper expenditure of the revenue of the county, but we are of the opinion that the above set out section is designed merely to prevent the County Clerk from exceeding the amount allowed him to be retained for deputy hire under Section 11811, R. S. Mo. 1929.

Respectfully submitted,

James L. HornBostel
Assistant Attorney General

APPROVED:

ROY MCKITTRICK
Attorney General.

MW/JLR:afj