

COUNTY CLERK: Deputies and Assistants: Method of Salary.

10/29
October 18, 1937



Mr. Edward V. Long
Prosecuting Attorney
Pike County
Bowling Green, Missouri

Dear Sir:

This is to acknowledge receipt of your letter of October 13, 1937, with reference to the construction of Section 11811, Laws of Missouri 1937. Your letter reads as follows:

"The County Clerk of this County has asked that I secure a ruling from your department for him on the following situation.

Section 11811 Missouri Laws 1937 provides that the Clerks of the County Courts and their deputies and assistants, shall receive for their services annually, to be paid out of the County Treasury in monthly installments at the end of each month by warrants drawn by the County Court upon the County Treasury. I would like your opinion on whether the Court should issue one warrant for total due the Clerk and deputies to the County Clerk and him to disburse to the deputy the amount due them or should the

Court issue to the Clerk
one warrant for the amount
due him and issue to each
deputy a separate warrant
for the amount due them."

In answer to your letter will state that Section 11811 of the Laws of Missouri, 1937, reads as follows: (page 441)

"Salaries of county clerks,
deputies and assistants -
fees to county treasury.

"The clerks of the county
courts of this State and
their deputies and assist-
ants shall receive for their
services annually, to be
paid out of the county
treasury in monthly install-
ments at the end of each
month by warrant drawn by
the county court upon the
county treasury, the follow-
ing sums: * * * * *

In 59 Corpus Juris, paragraph 569, page 952,
it is said:

"The intention of the legisla-
ture is to be obtained primarily,
from the language used in the
statute. The court must impartial-
ly and without bias review the
written words of the act, being
aided in their interpretation
by the canons of construction.
Where the language of a statute

is plain and unambiguous, there is no reason for construction, even though other meanings could be found; and the court cannot indulge in speculation as to the probable or possible qualifications which might have been in the mind of the legislature, but the statute must be given effect according to its plain and obvious meaning, and cannot be extended beyond it because of some supposed policy of the law, or because the legislature did not use proper words to express its meaning, or the court would be assuming legislative authority. "

The case of *Keane v. Strodtman, Sheriff*, 18 S. W. (2nd) 896, at paragraph 5 states:

"Certainly, where, as at bar, the statute limits the doing of a particular thing to a prescribed manner, it necessarily includes in the power granted the negative that it cannot be otherwise done. This is the general rule as to the application of the maxim. Even more relevant under the facts in this case is the interpretation given to it by the Kansas City Court of Appeals in *Dougherty v. Excelsior Springs*, 110 Mo. App. 623, 626, 85 S. W. 112, 113, to this effect: 'That when special powers are conferred, or where a special method is prescribed for the exercise and execution of a power,'

that exercise is 'within the provision of the maxim * * * and * * * forbids and renders nugatory the doing of the thing specified except in the particular way pointed out. ' "

In State ex rel. Cobb v. Thompson, State Auditor, 5 S. W. (2d) page 57, the Court held as follows:

"A statute is not to be read as if open to construction as a matter of course. It is only in the case of ambiguous statutes of uncertain meaning that the rules of construction can have any application. Where the language of a statute is plain and unambiguous and its meaning clear and unmistakable, there is no room for construction, and the courts are not permitted to search for its meaning beyond the statute itself."

Section 12169, Revised Statutes of Missouri 1929, gives a form of county warrant to be used by the county court on its order to the county clerk.

Section 12170 of the same statute reads as follows:

"Every such warrant shall be drawn for the whole amount ascertained to be due the person entitled to the same, and but one warrant shall be drawn for the amount allowed to any person at one time, and shall be written or printed in Roman

letters without ornament.
It shall be signed by the
president of the court
whilst the court is in
session, attested by the
clerk, and warrants shall
be numbered progressively
throughout each year:
* * * * *

In conclusion will state that, taking into consideration the original session law under which you asked construction and decisions in reference to same, it is the opinion of this Department that the county court must draw the warrant on the county treasury in the name of each clerk, deputy and assistant clerk.

Respectfully submitted,

W. J. BURKE
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

WJB LC