

TOWNSHIP TREASURER:

The township ex officio treasurer of township is not entitled to commission on money belonging to office which he turns over to his successor.

April 30, 1937.

5-12



Hon. Mark W. Wilson,
Prosecuting Attorney
Henry County,
Clinton, Missouri.

Dear Sir:

This Department is in receipt of your letter of April 24th, 1937, in which you request an opinion as follows:

"Sec. 12310 provides that the township treasurer receives as compensation 2% on receiving and disbursing all moneys coming into his hands as treasurer on the first \$1000.00, and 1% on all sums over that amount. In view of the above is an outgoing township treasurer entitled to a commission on paying over the balance in his hands to his successor in office? In other words is the turning over of the township funds by the treasurer to his successor a disbursing within the meaning of the law so as to entitle him to a commission?"

Section 12310, R. S. Mo. 1929, as amended Laws of Missouri, 1931, page 377, authorizes the payment of compensation to certain township officers, and a part of said section pertaining to the compensation of ex officio treasurer is as follows:

"That the township trustee, as ex officio treasurer, shall receive a compensation of 2% for receiving and disbursing all moneys coming into his hands as such treasurer when the same shall not exceed the sum of \$1000.00, and 1% of all sums over said amount."

The proper answer to this question, we think, depends upon the meaning to be placed upon the word "disbursing" as it is used in this section. Does this word, as it is used here mean the payment of township charges as they are defined in Sec. 12303 R. S. No. 1929, or does it mean the disbursing of said money for township charges and the turning over, by the treasurer, of the balance on hand at the end of his term to his successor? If this means disbursing for township charges and the turning over by the treasurer of the balance on hand to his successor, we cannot understand why the Legislature made disbursing one of the elements upon which the commission is to be based. They might well have said that the treasurer shall receive a commission on all money which he receives. It would have the same effect, because if the treasurer is to receive his commission on the money he turns over to his successor, he would be receiving a commission on all money which comes into his hands.

To so construe this section would not give effect to the word "disbursing", as is said in *State v. Daues*, 14 S.W. (2d) 1.c. 1002:

"It is an elementary and cardinal rule of construction that effect must be given, if possible, to every word, clause, sentence, paragraph, and section of a statute, and a statute should be so construed that effect may be given to all of its provisions, so that no part, or section, will be inoperative, superfluous, contradictory, or conflicting, and so that one section, or part, will not destroy another.* * *"

In *Wright's, Admr. v. Wilkerson*, 41 Ala. 1.c. 272, the court, when it had before it the interpretation of the phrase "receipts and disbursements", in determining what compensation should be allowed an administrator, said:

"The word disbursement in the same section evidently means money or currency paid out in extinguishment of the liabilities of the decedent, or the expenses of the administrator."

Section 12303, R. S. Mo. 1929, is as follows:

"The following shall be deemed township charges: First, the compensation of township officers for their services rendered in their respective townships; second, contingent expenses necessarily incurred for the use and benefit of the township; third, the moneys authorized to be raised by the township board of directors for any purpose, for the use of the township."

This section fixes the things which are liabilities of the township. The paying over by the ex officio treasurer to his successor at the expiration of his term of office, of the money belonging to the office, is not an extinguishment of the liabilities of the township, or a payment of administration expense, as is defined by Section 12303, R. S. Mo. 1929.

CONCLUSION.

Therefore, it is our opinion that in order to give force and effect to each word and phrase of Section 12310, R. S. Mo. 1929, as amended Laws of Missouri, 1931, page 377, the township trustee, as ex officio treasurer, is only entitled to a commission upon the funds expended for township charges, as they are defined in Section 12303, R. S. Mo. 1929, and is not entitled to a commission upon money belonging to the office which is turned over to his successor. This is not a disbursement within the meaning of said section upon which the treasurer is entitled to a commission.

Respectfully submitted,

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Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General.

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