

PROSECUTING ATTORNEYS - Basis for determining salary

December 22, 1938

Mr. G. Logan Marr
Prosecuting Attorney
Versailles, Missouri



Dear Mr. Marr:

This will acknowledge receipt of your letter of November 29, requesting an opinion from this office relative to a charge of \$700.00 which your county court is carrying against you as for over-payment of your salary for the year 1931, and wherein such letter you ask the further question as to what reliance is to be accorded an opinion of the Attorney General.

Answering your first question wish to say that since the ruling of the Supreme Court came down in the case of State ex rel. O'Connor v. Riedel, 329 Mo. 616, which case you mention in your letter, the salary of prosecuting attorneys in the various counties of the state has been based upon the population of the respective counties as found by the official government census of 1930. Accordingly, when you went into office January 1, 1931, such was the basis of your salary for the year 1931, depending upon the 1930 census of Morgan County, and the previous basis of determining such salary, namely, by multiplying the last presidential vote by the numeral 'five' was discarded and of no further force and effect after such census went into effect in 1930.

It would appear from your letter that your salary as Prosecuting Attorney, for the year 1931, based upon the census population of Morgan County was \$1100.00, whereas, you were paid \$1800.00 for such year. Hence, the over-payment of \$700.00 is a proper charge against you.

Mr. G. Logan Marr

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Relative to your inquiry as to the reliance to be placed upon an opinion from this department, beg to say that our opinions are advisory and constitute a guide unless the subject matter of such opinion comes before the appellate courts of the State, and if a contrary ruling is made by such court then the court's opinion is one that must be thereafter followed.

Very truly yours

J. W. BUFFINGTON
Assistant Attorney General

APPROVED

J. E. TAYLOR
(Acting) Attorney General

JWB LC