

OFFICERS:  
PAYMENT OF SALARIES IN  
ADVANCE:

The court has no authority to advance  
the salary of any county officer.

November 7, 1939

Honorable Amos Rinaman  
Presiding Judge  
Lincoln County Court  
Troy, Missouri



Dear Sir:

This is in reply to yours of the 4th wherein you request an opinion from this department on the following question:

"Will you please give me an opinion on the following question: Has the County Court a legal right to advance the salary of any County Officer? Please render an opinion as soon as possible, and send direct to me at Troy, Missouri."

I do not know whether or not you refer in your request to any particular officer, but from my research on this question we find that the same rule applies to all officers. As a general proposition an officer must look to the statutes for his authority for drawing a salary or a fee and if the statutes does not provide for such salary or fee, then he is not entitled to the same.

By referring to Article V, chapter 9 of the Revised Statutes of Missouri 1929, it will be seen that it is the duty of the county court to attend to the county business and pass upon claims against the county which maybe presented to the court. No claim could be presented to the court before the services are performed. We find that the rule, as applicable to your question, is stated in Volume 12 Corpus Juris at page 1020, Section 646, in the following language:

"While a public officer has no rights of any sort to compensation for his services before he has earned it, even if prevented from performing such services by legislative action, \* \* \* \* "

Section 11813, Laws of Missouri, 1937, page 447, provides as follows:

"The salary of the Clerk, and that of his deputies, and assistants, shall be paid out of the county treasury, in monthly installments, at the end of each month. \* \* \* \* \* "

And Section 11811, Laws of Missouri, 1937, page 441, provides as follows:

"The clerks of the county courts of this State 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 warrant drawn by the county court upon the county treasury, the following sums: \* \* \* \* \* "

Section 11774, R. S. Missouri 1929, provides that the payment of the salary of a judge shall be made in the following manner:

"Such payments shall be made to such circuit judge and prosecuting attorney by the county treasurer of such county at the end of each and every month upon the accounts presented by such judge and prosecuting attorney, and shall be paid out of the general revenue fund of such county; and such monthly account, when presented and paid, shall be duly receipted for by such officers and retained as proper vouchers by the

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county treasurer of such county."

It will be noted that this section contemplates that the salary shall not be paid until the service is rendered.

Section 11769, R. S. Missouri 1929, provides that the state officers shall present their accounts to the auditor and shall be paid at the end of each month.

By a reading of all of the sections of the statutes which apply to payment of salaries of officers, it will be seen that the idea exists throughout such statutes that the lawmakers intended that the salary of the officer should be paid at the end of the month in which the services are rendered.

CONCLUSION.

From the foregoing it is the opinion of this department that the county court has no authority to advance the salary of any county officer or to pay it, or any part of it, before the services are rendered.

Respectfully submitted

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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W. J. BURKE  
(Acting) Attorney General

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