

SALARIES:

LIEUTENANT GOVERNOR:

Salary of Lieutenant Governor of the
State of Missouri.

October 17, 1945

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Honorable Forrest Smith
State auditor
Jefferson City, Missouri

Dear Sir:

This will acknowledge receipt of your letter requesting an opinion, which reads as follows:

"We are in receipt of a requisition from the Governor's office to pay the Lt. Governor of Missouri for acting as Governor during seven days of the month of July 1945.

"S. B. 168 which was approved on August 2, 1943, found on pages 869 and 870 of the 1943 Missouri Laws, provides among other things, that the Lt. Governor shall receive \$7,500 a year which amount shall constitute the total compensation for all duties to be performed by such officer and there shall be no further payment made to or accepted by said officer for the performance of any duty now required to be performed by said officer.

"I would like an opinion from your office as to whether we can legally pay the Lt. Governor for these seven days in which he served as Governor of Missouri during the absence of the Governor from Missouri."

Prior to the enactment of Senate Bill 168, passed by the 62nd General Assembly, found in Laws of 1943, pages 869-870, and referred to in your request, the Lieutenant Governor received his total salary and compensation under various laws

for services rendered to the State of Missouri.

Section 13397, R. S. Mo. 1939, provides that the Lieutenant Governor, as such, shall receive a salary at the rate of one thousand dollars per annum as full compensation for his services; also that when he shall act as Governor, he shall receive the salary of said office.

Section 18, Article V, of the Constitution, page 107c, R. S. Mo. 1939, provides that the Lieutenant Governor, while presiding in the Senate, shall receive the same compensation as shall be allowed to the Speaker of the House of Representatives.

Section 9158, R. S. Mo. 1939, provides that the Lieutenant Governor shall be a member of the Board of Probation and Parole, and shall receive as compensation for additional duties and services performed by him as such member, in addition to the salaries and fees allowed by law for his services as Lieutenant Governor, the same salary and expenses allowed by law to other members of said Board. The same statute provides that the other members of the Board shall receive a salary of three thousand dollars per annum and necessary expenses.

A well established rule of statutory construction is to ascertain the lawmakers' intent from the words used if possible and to put on the language of the Legislature, honestly and faithfully, its plain and rational meaning and to promote its object and the manifest purpose of the statute. *Artophone Corporation v. Coale*, 133 S. W. (2d) 343, 345 Mo. 344.

Unquestionably, the intention of the Legislature, in passing Senate Bill 168, supra, was to abolish the many laws pertaining to the salary of the Lieutenant Governor and enact in lieu thereof a law providing one salary for all services rendered the State of Missouri.

Senate Bill 168, as passed by the 62nd General Assembly, Laws 1943, pages 869-870, reads as follows:

"Section 1. Salaries of State Officers. - That from and after the first day of January, 1945, the Governor shall receive an annual salary of \$10,000, the Lieutenant-Governor, the Secretary of State, the State Treasurer, the State Auditor, the Attorney-General shall each receive an annual salary of \$7,500, and

from and after the first day of January, 1947, the Superintendent of Public Schools shall receive an annual salary of \$7,500, said salaries to be paid at the times and in the manner now provided by law.

"The said salaries shall constitute the total compensation for all duties to be performed by said officers and there shall be no further payments made to or accepted by said officers for the performance of any duty now required to be performed by said officers or either of them under any and all existing laws.

"Section 2. Repealing conflicting laws. - All laws in conflict with the provisions of this act pertaining to the salaries, or compensation, of the officers named in Section 1 of this act are hereby repealed."

At the time Senate Bill 168 was passed, Section 16, Article V, of the Constitution of the State of Missouri, page 107c, R. S. Mo. 1939, was in effect, and authorized the Lieutenant Governor to act as Governor under certain conditions, and provided that when so serving as Governor, he was entitled to all the emoluments of the office of Governor. Said constitutional provision reads:

"In case of death, conviction or impeachment, failure to qualify, resignation, absence from the State or other disability of the Governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the Lieutenant-Governor."

Furthermore, Section 11, Article IV, of the Constitution of 1945 also provides that on the death, conviction or impeachment, failure to qualify, resignation, absence from the state or other disability of the Governor, the powers, duties and emoluments of the Governor shall devolve upon the Lieutenant Governor for the remainder of the term or until the disability is removed, which provision is almost identical with the foregoing constitutional provision in R. S. Mo. 1939.

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Another well established rule of statutory construction is that the unconstitutionality of part of a statute does not render the remainder thereof invalid where enough remains, after discarding the invalid part, to show the legislative intent and furnish sufficient means to effectuate it. State ex rel. McDonald v. Lollis, 33 S. W. (2d) 98, 526 Mo. 644.

Therefore, in view of the two foregoing constitutional provisions, we question the validity of Senate Bill 168, as passed by the 62nd General Assembly, as to that part providing that the salary specified therein shall be the total compensation for all services rendered.

CONCLUSION

Applying the above rule of statutory construction in State ex rel. McDonald v. Lollis, supra, we are of the opinion that the Lieutenant Governor is entitled to the salary provided in Senate Bill 168, \$7500.00 per annum, in lieu of all other compensation, except that provided for in the foregoing constitutional provisions while acting as Governor of the State of Missouri. In such case, he is entitled to all the emoluments of the office of Governor.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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