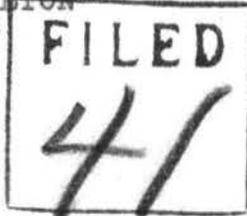


CORONERS: It is the duty of the county, in a county of the third  
OFFICE SPACE: class, to furnish the county coroner an office or space  
COUNTY COURT: to carry on his official duties; to maintain and equip  
SEC. 49.510: said office; to provide supplies and equipment as are  
RSMo. 1949: shown to be absolutely necessary; all to be taken care  
of and paid for out of county treasury, as provided for  
in Sec. 49.510, RSMo. 1949, as county court may direct.

JOHN M. DALTON  
XXXXXXXXXXXXXX



February 25, 1953

Mr. Robert Hoelscher  
Prosecuting Attorney  
Warren County  
Warrenton, Missouri

XXXXXXX

J. C. Johnsen

Dear Sir:

Your recent letter containing a request for an opinion has been assigned to me to answer. Said request is as follows:

"May the County Court legally allow the Coroner additional compensation such as office rent, telephone expense etc? At present the office of the Coroner is located in his home and he is receiving no operating expenses from the county."

Warren County is a county of the third class.

The coroner being a county officer we believe the statute applicable in answering your request to be Section 49.510, RSMo. 1949, which states as follows:

"49.510. County to provide and equip offices.--  
It shall be the duty of the county to provide offices or space where the officers of the county may properly carry on and perform the duties and functions of their respective offices. Said county shall maintain, furnish and equip said offices and provide them with the necessary stationery, supplies, equipment, appliances and furniture all to be taken care of and paid out of the county treasury of said county at the time and in the manner that the county court may direct."

Considering the terms of the statute we are of the opinion that it makes it the duty of the county to provide an office or space where the coroner may properly carry on and perform the duties and functions of his office; that it is the duty of the county to maintain, furnish and equip his office and provide only such necessary

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supplies, equipment, appliances and furniture as are shown to be needed, all to be taken care of and paid for out of the county treasury at the time and in the manner that the county court may direct.

We feel we are further fortified in our opinion by the case of Ewing v. Vernon Co., 116 S.W. 518, 216 Mo. 681, where in his opinion at pages 689 to 694 and 695 to 696, said:

"However, by parity of reasoning, some aid may be borrowed from our decisions; for instance, in pioneer times so early as 1832 the question was here whether it was the duty of Boone county to furnish its circuit clerk a room to keep his office. (County of Boone v. Todd, 3 Mo., star p. 140) The county refused to supply such room and Mr. Todd, the clerk furnished one. He presented his account for rent to the circuit court. That court allowed it in the sum of \$120. Thereat the county court refused to draw a warrant and Todd sued out a conditional mandamus. A peremptory writ being finally awarded, Boone County brought error. The judgment was affirmed partly on the theory that the statute, as it then read, required clerks to provide and safely keep and preserve suitable books and furniture 'and other necessaries for their respective offices,' etc. It was held, in this connection, that a room came under the head of 'necessaries' and was as much a necessary as a book to record the judgments of the court. But the decision is also put on larger grounds, viz: that it would be unreasonable to suppose that the Legislature could intend that a clerk should furnish a house to keep the books and papers at his own expenses. It was pointed out that in some instances this might require him to build a house and thus absorb all his official fees, or more. It is said also (Chief Justice McGIRK speaking), that to compel him to take his own private property for public use without compensation would be contrary to the Constitution; and that the law gives him his fees for compensation for official services and, so devoting them, did not intend those fees to be diverted or frittered away in providing a house to work in. What was this but holding that the laborer was worthy of his hire, and that the master, the public, should provide a safe and reasonable place and appliances in which to labor?

"In St. Louis County Court v. Ruland, 5 Mo. 269,

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the doctrine of the Todd case was approved. In the Ruland case the clerk furnished fuel for the use of his office. \* \* \*

"In Gammon v. Lafayette County, 79 Mo. 223, it was held that under a statute providing that the necessary expenses incurred by the probate court for furniture shall be paid by the county, the judge of such court could compel the county to repay him an outlay for a bookcase purchased for his use. \* \* \*

\* \* \* \* \*

"The conclusion we have come to comports with the general doctrine announced in 23 Am. and Eng. Ency. Law (2 Ed.), 388. 'Where,' say the editors of that standard work, 'the law requires an officer to do what necessitates an expenditure of money for which no provision is made, he may pay therefor and have the amount allowed him. Prohibitions against increasing the compensation of officers do not apply to such cases. Thus, it is customary to allow officers expenses of fuel, clerk hire, stationery, lights, and other office accessories.'

"The statute relating to recorders ordains that he 'keep' his office, etc., the word keep is one of wide and flexible meaning, one meaning being to maintain, to provide for. It involves the idea of continued effort in that line, i.e., that the office shall be carried on, enjoyed, etc. In this view of the case, the great breadth of the statutory work 'keep' permits of the notion that it was the legislative intent that the recorder of deeds should have the power to maintain and provide for his office in a reasonable way for the benefit of the public, and (by implication) at the public expense, where county courts violate or renounce their duty in that regard."

We commend this case for your attention regarding this section of the statute.

However, we believe that there is a limitation placed upon the foregoing statute regarding the provision of necessary stationery, supplies, equipment, appliances and furniture. Such limitation is

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that the coroner must budget these items in accordance with the provisions of Section 50.690, RSMo. 1949, and that the county court is under the duty of revising and amending this estimate in accordance with the provisions of Section 50.740, RSMo. 1949, and the showing must be made by the coroner in his budget estimate of the absolute necessity of the things included therein.

The above, we believe, is shown by the case of Rinehart v. Howell County, 348 Mo. 421, 153 S.W. 2d. 381, l.c. 426:

"The foregoing disposes of the points briefed by the appellant. The result might differ under live issues involving the County Budget Law, lawful action by the General Assembly covering the subject matter in said county, nonarbitrary action by the County Court, or the substantialness of the testimony as to the absolute necessity for the services."

#### CONCLUSION

It is, therefore, the opinion of this department that it is the duty of the county to furnish the county coroner an office or space wherein he may properly carry on and perform his duties and functions; it is the duty of the county to maintain, furnish and equip his office, provide only such necessary stationery, supplies, equipment, appliances, and furniture as are shown to be needed, all to be taken care of and paid for out of the county treasury at the time and in the manner the county court may direct.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. A. Bertram Elam.

Yours very truly,

JOHN M. DALTON  
Attorney General