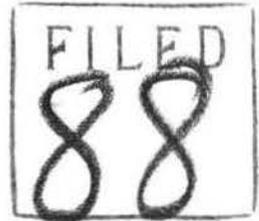


March 11, 1963

OPINION NO. 88 ANSWERED BY LETTER

Honorable J. R. Fritz  
Prosecuting Attorney  
Pettis County  
Sedalia, Missouri



Dear Mr. Fritz:

This is in response to your recent request for an opinion of this office concerning the salary of the Treasurer of Pettis County for the term of office from January 1, 1959, to December 31, 1963.

In an opinion issued to the Honorable G. B. Stewart on January 26, 1961, this office held:

"(1) that a change in population resulting from the 1960 census requires a change in the compensation payable to County officers whose salary is fixed in relation to such population by a statute in force as of the date of any such officer's election, and this is true whether the result be an increase or a decrease in the amount payable to such officers; and (2) that the 1960 census became effective for the purpose of ascertaining the salary of such county officers as of January 1, 1961, but that as to any officer whose salary is fixed on an annual basis and whose term began on a date other than January 1, any such change in compensation is not effective until the commencement of the next year of such officer's incumbency which begins subsequent to January 1, 1961."

A copy of that opinion is enclosed herewith.

Applying those principles to the instant problem, we turn to the formula in effect in counties of the third class (of which Pettis is one) on January 1, 1959, the

day upon which the treasurer in question took office. That formula appears in Section 54.260, RSMo 1949; and, since the 1950 census showed the population of Pettis County to be 31,577, the first portion thereof relevant to the instant question is that which reads:

"The county treasurers in counties of the third class of this state, . . . , shall receive for their services annually, . . . the following sums: . . . in counties having more than thirty thousand inhabitants but not more than thirty-five thousand, the sum of two thousand seven hundred and fifty dollars; . . ."

Hence, the annual salary of the treasurer in question for the years 1959 and 1960 should have been that amount.

The 1960 census showed an increase in the population of Pettis County from 31,577 to 35,120, thus placing Pettis County in the next higher bracket of Section 54.260, supra, which reads as follows:

". . . in counties having more than thirty-five thousand inhabitants but not more than forty thousand, the sum of three thousand two hundred dollars, . . ."

Under the terms of the previous opinion of this office referred to above, such a change does not violate the constitutional prohibition against increases of compensation of public officers during their term of office. Thus, the annual salary of the Pettis County Treasurer for the years of 1961 and 1962 should have been three thousand two hundred dollars.

We are aware of the fact that the formula used to determine the salaries of treasurers of counties of the third class was revised by both the 70th and 71st General Assemblies. Both of these revisions took effect during the term of office of the treasurer in question. However, since each would have had the effect of increasing the compensation of the treasurer (See Laws 1959, S.B. 66, section 1 and Laws 1961, p. 289, section 1), neither revision could affect his salary. For, as was discussed

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at length in the Stewart opinion attached herewith, where a public officer's salary is determined by a statutory formula in effect when he takes office, that formula is applied throughout his term rather than a subsequently enacted formula which would have the effect of increasing the salary.

We trust that the foregoing will be of assistance to you in answering the question stated in your letter.

Very truly yours

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THOMAS F. EAGLETON  
Attorney General

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