

November 7, 1963



The Honorable William H. Bruce, Jr.
Prosecuting Attorney
Reynolds County Courthouse
Centerville, Missouri

Dear Mr. Bruce:

This is in answer to your inquiry of September 30, 1963, which may be stated as follows:

May a person elected as prosecuting attorney of a fourth class county, and performing the duties and drawing the salary provided by said county, be appointed prosecuting attorney of an adjoining fourth class county under the provisions of Section 105.050, RSMo, perform the duties of prosecuting attorney and receive the salary of prosecuting attorney from the county to which he was appointed?

In answer to the above question, it may be answered in the affirmative, and I am enclosing herewith opinion of May 2, 1952, of this office, to the Hon. Ray Adams, Representative of Reynolds County, House of Representatives, Jefferson City, Missouri, which opinion specifically answers the question of the propriety of one prosecuting attorney being appointed prosecuting attorney in an adjoining county.

To answer the second part of this question, that is, may you draw the salaries provided for by both counties, Sections 56.280 and 56.285, RSMo, set forth the compensation to be paid prosecuting attorneys in class three and four counties, and in this regard, Section 56.280, RSMo, provides in part that prosecuting attorneys in counties having less than 7,500 population shall receive two thousand one hundred sixty-two dollars and fifty cents (\$2,162.50), [Reynolds County]; and in counties containing 7,500 population and less than 11,000 population, shall receive two thousand three hundred eighteen dollars and seventy-five cents (\$2,318.75), [Wayne County]. In addition to the above compensation, Section 56.285, RSMo, provides for an additional six hundred dollars to be paid to

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the prosecuting attorney for duties in relation to aid to dependent children. These two Sections, 56.280 and 56.285, RSMo, then, provide for a total salary of \$2,918.75 in Wayne County, with a population of 8,638, and a total salary of \$2,762.50 in Reynolds County, with a population of 5,161.

We find nothing either in our statutes or our Constitution which would limit the payment or prohibit the payment by each county of the salary of the prosecuting attorney to the person holding such office either by election or by appointment. In fact, it is specifically provided by Sections 56.280 and 56.285, RSMo, the amount of salary the prosecuting attorney shall receive. In this specific case, you are the prosecuting attorney of Reynolds County by the election of the people, and the prosecuting attorney of Wayne County by appointment of Governor Dalton, pursuant to the provisions of Section 105.050, RSMo. You have received this commission from the Governor for each office, and are performing the duties of each office and are, in our opinion, entitled to the salary provided by the statutes for each office.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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