

COUNTY COURTS: With respect to judicial circuits comprising two or more counties, none of which is a county of the second class, unless the county courts of all such counties order an increase of the salary of the circuit judge, none of the counties may lawfully pay any salary in addition to the annual salary of \$16,000 payable by the state. No lesser or greater amount than \$3,000 can be paid to such judge by the counties composing such circuit.

March 8, 1966

OPINION NO. 148

Honorable Elgin T. Fuller  
Judge of Tenth Judicial Circuit  
State of Missouri  
Marion, Monroe and Ralls Counties  
Court House  
Hannibal, Missouri



Dear Judge Fuller:

This is in answer to your request for an opinion of this office on the question whether, pursuant to Section 478.013, RSMo, Cum. Supp. 1965, the salary of the Judge of the Tenth Judicial Circuit may be increased beyond \$16,000 annually in the event that two of the three counties composing the circuit order an increase but the third county has made no such order.

Paragraph 3 of said Section 478.013, RSMo, Cum. Supp. 1965 reads:

"All other judges of the circuit courts of this state shall each receive an annual salary of sixteen thousand dollars payable by the state out of the state treasury. If the county courts of all of the counties composing a circuit so order, the judge of that circuit shall receive an additional three thousand dollars per annum to be paid by the counties composing the circuit, the counties contributing equal amounts."

You state that the counties of Marion, Monroe and Ralls comprise your circuit, that the county courts of Marion and Ralls have ordered an increase in your salary of \$1,000 from each of said two counties, but that the Monroe county court is unwilling to issue such an order. You inquire whether fewer than "all" of the counties composing a circuit may lawfully pay the increase to the circuit judge.

Honorable Elgin T. Fuller

Article V, Section 24, Constitution of Missouri 1945 provides that all judges shall receive as salary "the total amount of their present compensation until otherwise provided by law." Provisions of law contemplated in the constitutional language means legislative enactment. A county court has only such power as is expressly granted to it by the Constitution and statutes are necessarily implied therefrom. *King v. Maries County, Mo.*, 249 S.W. 418; *Everett v. Clinton County, Mo.*, 282 S.W.2d 30; *State ex rel. v. County Court of Barry County, Mo.*, 363 S.W.2d 691. There being no other statutory authority for county courts to fix or contribute to the salaries of circuit judges, the county would have no power in the premises in the absence of Section 478.013, supra.

Subsection 3 of said statute, quoted above, applies to the Tenth Judicial Circuit comprising three counties, and states that the circuit judge shall receive an additional \$3,000 per annum if the county courts of "all" of the counties composing the circuit so order. It is neither a necessary nor a fair inference from that language that fewer than all counties may act in the premises or that a lesser amount than \$3,000 compensation can be paid by the counties.

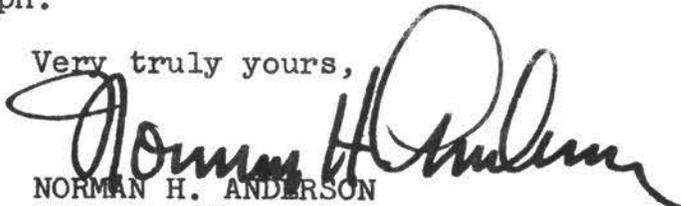
You have not asked, we do not consider, and we do not pass upon the constitutionality of said Section 478.013.

#### CONCLUSION

It is therefore the opinion of this office that, with respect to judicial circuits comprising two or more counties, none of which is a county of the second class, unless the county courts of all such counties order an increase of the salary of the circuit judge, none of the counties may lawfully pay any salary in addition to the annual salary of \$16,000 payable by the state. It is further the opinion of this office that no lesser or greater amount than \$3,000 can be paid to such judge by the counties composing such circuit.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Donald L. Randolph.

Very truly yours,



NORMAN H. ANDERSON  
Attorney General