

**ROADS & BRIDGES: County Court may not draw warrant in favor of overseer of districts under Section 7868, until his account is presented and audited by Court**

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April 9, 1938

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Honorable G. C. Beckham  
Prosecuting Attorney  
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Steelville, Missouri

Dear Sir:

This Department is in receipt of your letter of April 2, 1938, in which you request an opinion as follows:

"At the present time Crawford County, Missouri, is divided into four special road districts, and two road districts which are not special road districts. Of course each of these districts that is not a special road district has a road overseer appointed by the County Court. The County Court of Crawford County, now proposes to pay to each of these two road overseers at the beginning of each month the road money which is available for their respective district, and then let the overseer disburse this money during the following month as he sees fit, and then at the end of the month to make his report and accounting to the Court.

"I would like to have your opinion as to whether or not this would be legal and proper. "

Crawford County is a county not under township organization. From your request we gather that the road district under consideration here is what is some-

times called a common road district and one which is organized under the provisions of Article III, Chapter 42, Revised Statutes Missouri 1929.

The third proviso of Section 7891, of Article III, Chapter 42, Revised Statutes Missouri 1929, seems to be decisive of the question here. This proviso reads as follows:

"Provided further, that no warrant shall be drawn in favor of any road overseer until an account for work done or materials furnished shall have been presented and audited by the county court."

An examination of the above proviso shows that the legislature employed the past tense when providing what must be done before the county court may issue a warrant in favor of a road overseer of a common road district. By so doing these things are made prerequisites to the issuing of the warrant.

In State ex rel. v. Railroads, 215 Mo. 1. c. 490, the Court said:

"That the grammatical rule of interpretation should be considered and applied along with other rules of construction when there is no conflict between them, and thereby give full force and effect to all."

Further, it is said, at l. c. 491:

"The grammatical construction of a statute is one mode of interpretation. But it is not the only mode, and is not always the true mode."

Honorable G. C. Beckham

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We may assume that the draftsman of an act understood the rules of grammar, but it is not always safe to do so."

While it may not at all times be a safe rule to follow, we believe the above construction, based upon this rule, correctly settles this question.

Another rule of construction in Missouri is stated in *Cummins v. Kansas City Public Service Co.*, 66 S. W. (2d) 1. c. 931, where it is said:

"It is, of course, fundamental that where the language of a statute is plain and admits of but one meaning there is no room for construction."

This we think Section 7891, supra, is, and consequently needs no great elaboration in arriving at the legislative intent from the language therein employed.

Therefore, it is the opinion of this Department that the county court of Crawford County may not, at the first of each month, draw a warrant in favor of the overseer of a common road district and pay over to him all funds available for that district in that month, and permit said overseer to disburse said money as he sees fit, accounting for it at the end of the month.

The statute provides the manner in which these warrants are to be handled and must be followed.

Respectfully submitted,

TYRE W. BURTON  
Assistant Attorney General

APPROVED

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J. E. TAYLOR  
(Acting) Attorney General

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