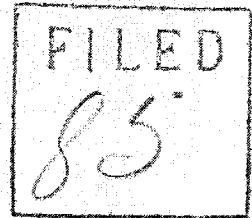


COUNTY COURT: : Appointee to fill unexpired term of county court
OFFICERS, : is not entitled to increased compensation as pro-
SALARIES AND : vided in House Bill 778, passed by the 63rd Gen-
COMPENSATION : eral Assembly.

October 12, 1946.



Honorable Jackson C. Stanton,
Prosecuting Attorney
Miller County,
Tuscumbia, Missouri.

Dear Mr. Stanton:

This will acknowledge receipt of your recent request for an official opinion, which reads:

"The question has arisen in this county about the compensation of a member of the County Court.

"The Honorable George W. Robinson was appointed by his majesty, Governor Phil L. Donnelly, a member of the Miller County Court on the 23rd day of July, 1946.

"I do not have the law before me, but I am told that, effective July 1st, 1946 a law was passed that fixed the salaries and compensation of members of the County Court, elected or appointed after the effective date of such law at \$10 per diem and mileage. The present compensation for such members of the County Court in this county is \$5 per day and mileage for one trip each month.

"Question: What should be the rate of compensation for Judge Robinson, and covering what period?"

House Bill 778, enacted by the 63rd General Assembly on March 7, 1946, became effective on July 1, 1946. Said bill increased the compensation of members of the county court in third class counties to \$10.00 per day for the first five days in any month that they may be necessarily engaged in holding court; and \$5.00 per day for each additional day in any month that they may be necessarily engaged in holding court. It further provides for mileage, and specifically repeals Sec. 13402, R. S. No. 1939.

Section 1 of said Act reads:

"In all counties of the third class in this state, the judges of the county court shall receive for their services the sum of ten dollars per day for each of

the first five days in any month that they are necessarily engaged in holding court and shall receive five dollars per day for each additional day in any month that they may be necessarily engaged in holding court, and shall receive five cents per mile for each mile necessarily traveled in going to and returning from the place of holding county court. The per diem compensation herein fixed shall be paid at the end of each month and the mileage compensation shall be paid at the end of each month on presentation of a bill, by each of the respective county judges setting forth the number of miles necessarily traveled; provided, however, that this increase in compensation shall not become effective during any county judge's present term of office."

We wish to specifically call your attention to the last proviso under Sec. 1, supra, which we think is not ambiguous, but simply prohibits any increase in compensation during the present term of any county judge.

Section 8 of Article 14 of the Constitution of 1875 prohibited any increase in compensation of any state, county or municipal officer during his term of office.

Section 13 of Article 7 of the Constitution of 1945, now in effect, provides that the compensation of county, state and municipal officers shall not be increased during the term of office, which clearly indicates that even if House Bill 778, supra, should be construed so as to permit a county judge, appointed to fill an unexpired term of office, to receive the increased compensation provided in said Act, Section 13 of Article 7, supra, prohibits such increase during the term of office, which applies to the term and not the individual.

THEFORE, it is the opinion of this department that a person appointed to the county court by the Governor to fill a vacancy in said court, is not entitled to increased compensation as provided in House Bill 778, supra, during the term of office for which his predecessor was elected.

Respectfully submitted,

AUBREY R. HAMMETT, Jr.
Assistant Attorney-General

APPROVED:

J. E. TAYLOR,
Attorney-General

ARH/LD