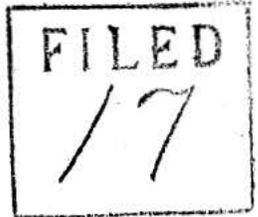


COUNTY COURT: It is within the discretion of the county court to pay a wolf bounty up to but not exceeding ten dollars.



March 27, 1947

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Honorable James D. Clemens  
Prosecuting Attorney  
Pike County  
Bowling Green, Missouri

Dear Sir:

We are in receipt of your request for an official opinion of this department, which reads:

"Your opinion is requested on the following point: Is the County Court authorized to expend public monies in payment of a wolf bounty in a sum larger than the Ten Dollar payment authorized by Section 14559?

"I am of the opinion that Section 14559 does not itself authorize a payment of more than Ten Dollars for a wolf, but desire your opinion as to whether an additional sum may be paid by the County Court independent of the authority granted by the cited section."

Under Section 14559, R.S. Mo. 1939, the county court in any county in this state is authorized to pay ten dollars for each wolf killed in such county, and reads:

"The county court of any county in this state may pay a bounty of ten dollars each for any grown coyote or wolf and three dollars each for any coyote or wolf pup which may be killed in such county, also a bounty of five dollars for each grown wild cat, and three dollars for each wild cat kitten which may be killed in such county: Provided, that each such bounty shall not be paid for any coyote, wolf, wild cat, the pups of coyotes or wolves or the kittens of wild cats which may have been raised in captivity either

within or without this state: Provided further, that a coyote or wolf pup and a wild cat kitten shall be deemed such when under ten weeks old: Provided, also, that it shall be unlawful to import into this state any such animals except for exhibition purposes and then only under permit as otherwise provided for by the statutes of this state."

You will notice the Legislature, in passing said provision, used the word "may" and not "shall", which under the rules of statutory construction indicates that the legislative intent was to leave it within the discretion of the respective county court as to whether any bounty shall be paid for killing wolves. The word "may" used in ordinary meaning carries no thought of compulsion, but is permissive and power giving and not at all compelling, discretionary, and not mandatory. (See *Lansdown v. Faris*, 66 Fed. (2d) 939, l.c. 941; also, *State ex rel. v. Blair*, 245 Mo. 680, l.c. 693.)

It is well established in this state that county courts are courts of statutory origin and have only limited jurisdiction. Furthermore, said county courts possess no powers, except those conferred by statute, having no common law power, and, aside from management of fiscal affairs of the county, possess no powers except conferred by statute. In *State ex rel. Chadwick Consolidated School District v. Jackson*, 84 S.W. (2d) 988, 229 Mo. App. 842, l.c. 845, the court said:

"\* \* \* The answer to that question depends upon the statutory powers of the county court. Such court is a creature of the constitution and its powers are limited by the terms of the various statutes defining its powers. It has no common law or equitable jurisdiction. (*State ex rel. v. Johnson*, 138 Mo. App. 306, l.c. 314, 121 S.W. 780.) In so far as the making of levies for school districts is involved, the county court has been given no supervisory powers whatever. Estimates for sinking fund and interest on bonded indebtedness of any district are made by the school board of such district. (Sections 9203, 9204, Revised Statutes 1929.) Upon receipt of such estimates it becomes the duty of the

county clerk to make the assessment against the taxable property lying within the district, if within the limits prescribed by law. (Section 9261, Revised Statutes 1929.) The board of directors in this case made an estimate of twenty-five cents on the \$100 valuation for sinking fund and a similar amount for interest. Such estimate was within the constitutional and statutory limit. It is true that at the time the estimate was made there appears to have been on hand sufficient funds belonging to the district to have retired all outstanding bonds. It was upon such state of facts the county court attempted to quash the levy and order the county collector not to collect the alleged illegal levy. There is no statutory authority for such procedure or exercise of judicial power by a county court. In fact no court is given statutory power to revise an estimate of a school board when within the legal limits allowed by law. In the case of Lyons v. School District, 278 S.W. 74, where a similar state of facts arose, the Supreme Court said: \* \* \* \* \*

Also, in State v. Corneli, 152 S.W. (2d) 83, l.c. 85 and 86, the court, in announcing the foregoing rule, said:

"We concede that the county court is created as a court of record and its jurisdiction partially fixed by the constitution. Section 36 of Article VI of the Missouri Constitution Mo.St. Ann. vests such court with 'jurisdiction to transact all county and such other business as may be prescribed by law.' But the authorities are uniform to the effect that county courts possess only limited jurisdiction. Outside the management of the fiscal affairs of the county, such courts possess no powers except those conferred by statute. State ex rel. v. Redman, 270 Mo. 465, 194 S.W. 260; State ex rel. v. Oliver, 202 Mo. App. 527, 208 S.W. 112."

CONCLUSION

In view of the foregoing decisions holding that a county court has no common law powers, but is a creature of statute and is a court of limited jurisdiction, having no authority outside the fiscal management of the county business except such authority as granted by statute, we are of the opinion that the county court may pay a bounty for killing a wolf in an amount not to exceed ten dollars. However, it is left to the discretion of the county court whether any bounty whatsoever may be paid. Under no condition can the county court pay an amount in excess of ten dollars as a bounty for killing a wolf in the absence of a statute authorizing said county court to pay a larger bounty.

Respectfully submitted,

AUBREY R. HAMMETT, Jr.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

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