

SALARIES: Salary of County Clerk elected at November 1950 election is determined by 1950 decennial census.

March 31, 1950

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Honorable Walter A. Eggers
Judge of the Probate Court
Perryville, Missouri

Dear Judge Eggers:

This department is in receipt of your recent request for an official opinion upon the following matter:

"Assuming that a County Clerk is elected at the November election of 1950 and assuming further that the present salary is based on a population in excess of 15,000, now then let us assume that the 1950 census would show a population of only 14,000, when would the county clerk's salary be reduced? Would it be effective beginning with the new term Jan. 1, 1951 or would the newly elected county clerk continue to receive the former salary during his term of office?"

We take note of the fact that Perry County is a county of the fourth class.

The salary of the county clerk in counties of the fourth class is fixed by Section 1, House Committee Substitute for House Bill No. 768, Laws of Missouri, 1945, page 1524, approved March 9, 1946. That section reads:

"The clerk of the county court in counties of the fourth class shall receive for their services annually the following sums: In counties having a population of less than 7,500 the sum of \$1000; in counties having a population of 7,500 and less than 10,000 the sum of \$1100; in counties having a population of 10,000 and less than 11,500 the sum of \$1250; in counties having a population of 11,500 and less than 12,500 the sum of \$1300; in counties having a population of 12,500 and less than 15,000 the sum of \$1500; in counties having a

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population of 15,000 and less than 17,500 the sum of \$1700; and in counties having a population of 17,500 or more the sum of \$1900."

House Bill No. 876, approved March 15, 1946, Laws of Missouri, 1945, pages 1550 and 1551, Section 13430, states:

"The last previous decennial census of the United States shall be the basis for determining the population of any county in this state, for the purpose of ascertaining the salary of any year, or the amount of fees he may retain, or the amount he shall be allowed to pay for deputies or assistants; provided that for the purposes of this section, the effective date of the 1950 decennial census of the United States shall be January 1, 1951, and the effective date of each succeeding decennial census of the United States shall be on January 1 of each tenth year after 1951."

A county clerk elected at the November election in 1950 would assume office January 1, 1951, which is the effective date of the 1950 decennial census. Therefore, for his term, his salary would be determined by the population of Perry County as that population is shown to be by the 1950 decennial census.

CONCLUSION

It is the opinion of this office that the salary of a county clerk in a fourth class county, who is elected at the November election of 1950, will be determined by the population of that county as that population is shown to be by the 1950 decennial census.

Respectfully submitted,

APPROVED:

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HPW:VLM