

COUNTIES: REDUCTION OF COUNTY TREASURER'S SALARY: County Court has right to reduce treasurer's salary.

January 20, 1940

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Mr. E. S. Trantham, Treasurer
Webster County
Marshfield, Missouri



Dear Sir:

We are in receipt of your letter of January 18th wherein you request an opinion, which reads as follows:

"I would like an opinion on the following situation.

On November 23, 1938, the county court made an order and recorded same in the minutes of meeting. Setting salary of county treasurer at \$1800.00 per year. Effective Jan. 1, 1939.

On January 10, 1939, the county court made an order recorded in minutes as follows.

The court orders that effective Jan. 1, 1939, the treasurer's salary be and is fixed at \$1500.00 per year. Did the later court have legal power to change the order of Nov. 23, 1938. After the treasurer had taken office?

Which order is legal and binding on said court."

We find that on December 19, 1939, our department rendered you an opinion regarding the same general situation, and this request is on a specific set of facts.

In addition to the opinion which is referred to above, we call your attention to the case of Dietrich v. Brickey, County Court Judge, 48 S. W. (2d) 69, wherein the court said:

"This is an action to set aside and enjoin the enforcement of an order made by the defendants, as judges of the county court of Jefferson county, reducing plaintiff's salary from \$1,500 to \$1,000 per annum, as treasurer of said county. The trial resulted in a judgment for defendants, dismissing plaintiff's bill, and plaintiff appeals.

For the previous history of the case see Dietrick v. Brickey (Mo. App.) 277 S. W. 615; State ex rel. Dietrich v. Daves, 315 Mo. 701, 287 S. W. 430; Dietrich v. Brickey (Mo. App.) 293 S. W. 65; Id., 327 Mo. 189, 37 S. W. (2d) 428.

Plaintiff concedes the power of the county court, in the exercise of an honest discretion, to reduce his salary, but insists that the weight of the evidence shows that the order of the county court reducing his salary was made arbitrarily, corruptly, and fraudulently, and not in the exercise of an honest discretion, and asks that this court reverse the judgment of the circuit court and direct that court to set aside the order of the county court and enjoin its enforcement.

The order of the county court was made on December 18, 1923. Previous to that time, during plaintiff's incumbency, his salary had been increased from \$1,000 to \$1,500. * * * * *

And further, the court said upon the state of facts:

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"We cannot say, in view of this evidence, that the order of the county court was made arbitrarily, corruptly, or fraudulently, or that there was an abuse of discretion in making the order."

In conclusion, we are of the opinion that the county court of Webster County had the legal right to make the order on January 10, 1939, reducing the salary of the county treasurer from \$1800.00, as was made on its record November 23, 1938, to the sum of \$1500.00.

Respectfully submitted,

B. RICHARDS CREECH
Assistant Attorney General

APPROVED:

W. J. BURKE
(Acting) Attorney General

BRC:VC
Enc.