

TREASURER: Treasurer may be reimbursed for necessary
COUNTY COURT: clerical hire.

February 8, 1944.



Mr. Louis G. Johnson,
Presiding Judge
St. Francois County Court,
Farmington, Missouri.

Dear Sir:

Your letter of January 27, 1944, presents for our opinion the following question:

May the County Court reimburse the County Treasurer for \$1215.00 expended by him for clerical hire in the discharge of the duties of his office?

It appears that this sum has actually been expended by the Treasurer, and you state that such expenditure was "indispensable to conduct the duties of said office." We assume that you consider the sum to be reasonable.

The office of Treasurer in St. Francois County is governed by the provisions of Article 8, Chapter 100, R.S.Mo. 1939. Examination of that article does not disclose that the Treasurer of said county is authorized to employ a clerical force at the expense of the county. Nor do we find any other statute so providing. However, it does appear that Section 13800, Laws 1941, p. 534, authorizes Treasurers in counties having more than 75,000 and not more than 120,000 inhabitants to employ one deputy at a fixed salary.

We think the conclusion to be reached is governed by *Rinehart v. Howell County*, 153 S.W.(2d) 381 (Mo. Sup.). In that case the county prosecuting attorney had expended certain sums for necessary stenographic services connected with the discharge of his duties. The county refused to reimburse him and he brought action to compel reimbursement. The court held he was entitled to recover. The opinion points out how the prosecutor was not authorized by statute to have a stenographer, and how in larger counties prosecutors were authorized by statute to have a stenographer, and then disposes of the question as follows (l.c. 383):

"Appellant's statutory citations (authorizing stenographers in larger counties) constitute legislative recognition of the propriety of expenditures for stenographic services in the discharge of the present-day duties of prosecuting attorneys in the communities affected - an approved advance in proper instances for the administration of the laws by county officials and the business affairs of the county and for the general welfare of the public. Such enactments, in view of the constitutional grant to county courts, (Art. 6, Sec. 36) should be construed as relieving the county courts in the specified communities from determining the necessity therefor and, by way of a negative pregnant, as recognizing the right of county courts to provide stenographic services to prosecuting attorneys in other counties when and if indispensable to the transaction of the business of the county, and not as favoring the citizens of the larger communities to the absolute exclusion of the citizens of the smaller communities in the prosecuting attorney's protection of the interests of the state, the county and the public. See the reasoning in *Ewing v. Vernon County*, 216 Mo. loc. cit. 693, 116 S.W. loc. cit. 522. Consult *Harkreader v. Vernon County*, 216 Mo. 696, 116 S.W. 523, involving reimbursement to a sheriff of expenditures for water, gas, janitor service and stamps. *Buchanan v. Ralls County*, 283 Mo. 10, 222 S.W. 1002. Additional reasons sustaining the judgment nisi may be found in the cases cited.

"The foregoing disposes of the points briefed by the appellant. The result might differ under five issues involving the County Budget Law, lawful action by the General Assembly covering the subject matter in said county, nonarbitrary action by the County Court, or the substantialness of the testimony as to the absolute necessity for the services."

As applied to the instant question, it appears that, just as in the Rinehart case, the Treasurer of St. Francois County does not have a statute authorizing him to have clerical help, but that in larger counties the Treasurers are, by statute, provided with help. The same line of reasoning employed in that case ought to apply to warrant reimbursement of the Treasurer of St. Francois County for all reasonable sums expended by him for clerical hire "when and if indispensable to the transaction of the business of the county."

CONCLUSION.

Therefore, subject to the same reservations made by the court in the Rinehart case, we are of the opinion that the Treasurer of St. Francois County may be reimbursed in a reasonable sum for expenditures made for clerical hire necessary and indispensable to the transaction of the duties of his office.

Respectfully submitted,

LAWRENCE L. BRADLEY
Assistant Attorney-General.

APPROVED:

ROY McKITTERICK
Attorney-General.

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