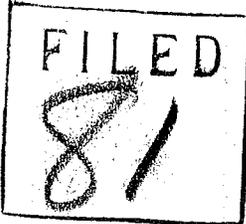


BOUNTIES: There is no statute in this State authorizing County Courts of any county of any class in this State to set and pay out of the county treasury bounties on foxes or fox puppies.



February 15, 1954

Honorable D. W. Sherman, Jr.
Prosecuting Attorney
Lafayette County
Lexington, Missouri

Dear Mr. Sherman:

This is the opinion you requested on the question of whether the County Court of a third class county may set and pay out of the county treasury a bounty on foxes and fox puppies killed by citizens within the geographical limits of such county. Your letter requesting this opinion reads as follows:

"I have been requested by the County Court of Lafayette County to request the following opinion of your office, to-wit:

"May a County Court of a third class County set a bounty on fox and fox puppies, to be paid out of the County treasury for fox and fox puppies killed by citizens, when same are killed within the geographical limits of the County and when the County Clerk keeps a record, as provided in cases of foxes, etc. in chapter 279, Missouri Revised Statutes of 1949?

"Further would said payment on the bounty be an authorized expenditure if said sum was reasonable and followed the amount set forth in the above described chapter, providing further that the authorized order of said Court complied with any rule and regulation promulgated by the said Conservation Commission?"

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Your letter refers to Chapter 279, RSMo. 1949, and the record required by Section 279.040 of such chapter to be kept by the County Clerk of any county where bounties are paid on wild animals named in the chapter which are taken by citizens of such county. It is noted specially in paragraph 2 of your letter requesting this opinion you refer to the record to be kept by the county clerk "as provided in cases of foxes, etc., in Chapter 279, Missouri Revised Statutes of 1949?" Chapter 279, RSMo. 1949, does not require a record to be kept of foxes or fox puppies killed in any county in this state. Said chapter does not refer to foxes or fox puppies in any manner. Such animals are not made the subject of the payment of bounties upon being killed in the county.

There were amendments made by repeal and re-enactment of Sections 279.010 and 279.030, H.B. 88 by the 67th General Assembly of this state (Cumulative Supplement, Laws of Missouri, 1953, page 424).

Sections 279.010 and 279.030 before they were repealed, provided for the taking of and payment of bounties on coyotes, wolves and wildcats. Upon the repeal of said Sections 279.010 and 279.030, RSMo 1949, and the enactment in place and stead thereof, of said Sections 279.010 and 279.030, H.B. 88, 67th General Assembly, Cumulative Supplement, Laws of Missouri, 1953, both new sections refer in like manner only to the taking of coyotes, wolves and wildcats and the payment of bounties therefor. In none of these sections repealed or re-enacted was there or is there any provision made for the taking of foxes and fox puppies or the payment of bounties therefor, if and when taken by the citizens in any county of this state.

It is not deemed necessary, in the interest of brevity, to quote the sections repealed and re-enacted on the subject of the killing of coyotes, wolves and wildcats, and the payment of bounties thereon, since said section may readily be observed and read at the citations given referring thereto. Chapter 279, RSMo 1949, as amended, H.B. 88, 67th General Assembly, Cumulative Supplement, Laws of Missouri, 1953, page 424, refer only to the taking and payment of bounties on coyotes, wolves and wildcats. The sections on the subject do not include foxes or fox puppies in naming the wild animals which may be killed and upon which bounties may be paid by counties in this state, including counties of the third class. It is apparent, therefore, that the Legislature did not intend that bounties should be paid upon any other class of wild animals than those expressly named in Chapter 279, RSMo 1949, when killed within the geographical limits of the counties.

A familiar rule of construction announced and followed by the text writers and by the Appellate courts of this state applied in the construction of statutes is that the expression of one subject

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by the provisions of a statute implies the exclusion of all other subjects. 59 C.J., page 984, states the rule as follows:

"* * *Where a statute enumerates the things upon which it is to operate, or forbids certain things, it is to be construed as excluding from its effect all those not expressly mentioned; * * *."

This rule was discussed and applied by our Springfield Court of Appeals in the case of Crevisour et al. vs. Hendrix, 136 S.W. 2d, 404, in a workmen's compensation case. The question was whether, under a section of the Compensation Act of this state which provided that where an employer employed more than ten men regularly he became a major employer or whether in order for such employer to be a major employer such employees should be employed for five and one-half consecutive days in addition to being ten in number to make the employer a major employer. The decision by the Springfield Court of Appeals held that the statute providing that the employment of ten men regularly constituted the employer a major one, and that this was sufficient, excluding all other conditions of employment. The Court, l.c. 408, applying the above-noted rule to its decision, said:

"It is an elementary rule of almost universal application that the expression of one thing is the exclusion of another; * * *."

This rule was applied by the Supreme Court of this state to the facts and conditions in the case of State ex rel. Conkling, Prosecuting Attorney vs. Sweaney, et al. 270 Mo. 685. The Court considered and determined the question in the construction of a statute relating to the boundary lines and property of common school districts as to whether the provisions of the statute respecting the division of property between common school districts when boundary lines were changed, applied to town, city and consolidated districts by authorizing the division of a town, city or consolidated school district into two new school districts. The Court held that this could not be done; that the statute providing for the division of common school districts did not apply to or include village school districts. The Court said in applying this rule of construction, l.c. 691, 692, the following:

"* * *Such being the case the Legislature, when it enacted Section 10881, knew that the provisions of Section 10837, relating to the division of one common school district into two new districts, would not apply to town or consolidated districts unless it so

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provided in the act, and knowing this to be true and failing to so provide it would be but to do violence to the plain language used to hold that it expressed an intention to apply provisions other than those expressly mentioned. To so hold would be to violate the well known canon of statutory construction, viz.: That the expression of one thing is the exclusion of another."

It would, therefore, appear plain, we believe, that Sections 279.010 and 279.030, H.B. 88, 67th General Assembly, Cumulative Supplement, Laws of Missouri, 1953, page 424, (RSMo. 1949) in expressly providing for the killing and payment of bounties therefor on coyotes, wolves and wildcats, all other wild animals including foxes and fox puppies, are excluded from the terms thereof, and that under the decisions noted so applying said rule of construction, the payment of a bounty or bounties for the killing of foxes or fox puppies would not be an authorized expenditure by a county of the third class, or any other class, in this state, out of public funds.

CONCLUSION

It is, therefore, considering the premises, the opinion of this office that counties in this state, including class three counties, are not authorized to pay bounties for foxes or fox puppies killed within the geographical limits of such counties under the provisions of Chapter 279, RSMo. 1949 as amended.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. George W. Crowley.

Yours very truly,

JOHN M. DALTON
Attorney General

GWC:irk:mw