

C O P Y

COUNTY SURVEYOR: County surveyor cannot make charge exceeding  
FEES: the amount set out in the statutes.

January 31, 1949

Honorable R. G. Mayfield  
Prosecuting Attorney  
Laclede County  
Lebanon, Missouri

FILED  
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Dear Sir:

Your letter requesting an opinion of this department reads as follows:

"The surveyor of Laclede County has requested that I obtain an opinion from you on the question of whether he could enter into an agreement with a person requesting a survey for a charge exceeding the amount set out in Section 13425.1, Laws 1935, Page 1541, Section 1, and Section 13206, R.S. of Missouri, 1939. He advises me that it is utterly impossible to perform the duties of the office at the rate of pay set out in the statutes."

Laclede County is a county of the third class. Section 13425.1, Laws of Missouri, 1945, page 1541, provides for the compensation of county surveyors in counties of the third class, setting out a schedule of fees to be allowed them for their services. Section 13206, R.S. Mo. 1939, provides for the compensation of chainmen and markers at the rate of two dollars for each day actually employed, to be paid by the party requesting the survey. The question presented is whether the county surveyor may enter into an agreement for a charge exceeding the amount set out in these statutes. In point with this question, the court, in Nodaway County vs. Kidder, 129 S.W. (2d) 857, said, l.c. 860:

"The general rule is that the rendition of services by a public officer is deemed to be gratuitous, unless a compensation therefor is provided by statute. If the statute provides compensation in a particular mode or manner, then the officer is

confined to that manner and is entitled to no other or further compensation or to any different mode of securing same. Such statutes, too must be strictly construed as against the officer. \* \* \*"

The county surveyor is a public official whose compensation is provided for by Section 13425.1, supra. He is limited by the schedule of fees in this section and by Section 13206, supra, in making charges for services performed, and cannot enter into an agreement for a charge exceeding the amounts set out in these statutes.

CONCLUSION

It is the opinion of this department that a county surveyor of a third class county cannot enter into an agreement with a person requesting a survey for a charge exceeding the amount set out in Section 13425.1, Laws of Missouri, 1945, page 1541, and Section 13206, R.S. Mo. 1939.

Respectfully submitted,

RICHARD H. VOSS  
Assistant Attorney General

APPROVED:

J. E. TAYLOR  
Attorney General