VOLUME NO. 35   Opinion No. 22

SHERIFFS — Deputies, computation of salaries; SHERIFFS — Salaries, how computed. Sections 25-604 and 25-605, R.C.M. 1947; Chapter 474, Session Laws of 1973.

HELD: In computing the salary of deputy sheriffs, which are based upon the sheriff's salary, the salary of the sheriff includes the $1,200 provided for in section 25-605, R.C.M. 1947.

August 23, 1973

Mr. Theodore P. Cowan
Deputy County Attorney
Fergus County Attorney's Office
Lewistown, Montana 59457

Dear Mr. Cowan:

You have requested my opinion on the following question:

> In computing the salary of deputy sheriffs, which are based upon the salary of the county sheriff, does the sheriff's salary include the additional sum of $1,200 as provided in Chapter 474, Session Laws of 1973?

Section 25-605, Revised Codes of Montana, 1947, as amended by Chapter 474, Session Laws of 1973, provides in pertinent part:

> The salaries of county ... sheriffs, ... shall be based on the population and taxable valuation of the county in accordance with the following schedule:
>
> The total salary paid to county ... sheriffs, ... shall be the sum of the salary shown in colum A based on population when added to the salary shown in column B based on taxable valuation; provided however, that ... county sheriffs shall receive, in addition to the salary based upon the totals of columns A and B above, the sum of one thousand two hundred dollars ($1,200) per year. ...

The provision giving the sheriff $1,200 in addition to the total of columns A and B was raised from $400 to $1,200 by Chapter 474, Session Laws of 1973.

The title of Chapter 474, Session Laws of 1973, provides:

> AN ACT AMENDING SECTION 25-605, R.C.M. 1947, INCREASING THE SALARIES OF CERTAIN COUNTY OFFICERS.

In **Nangle v. Northern Pacific Ry. Co., et al.,** 96 M. 512, the Montana Supreme Court stated at page 522:

> The title of an Act is indicative of the legislative intent in passing it.

Applying this principle of statutory construction to the title of Chapter 474, supra, it would appear that the sole purpose of the act was to increase the salaries of certain county officers. As the above-quoted provisions of section 25-605, supra, indicate, the county sheriff is to receive $1,200 in addition to the sum of his salary based on population added to the sum of the salary based on taxable valuation. Thus, the salary of the sheriff should be considered as the total of: (1) the salary provided in columns A and B of section 25-605, supra; and (2) $1,200.

The county commissioners have the duty to set the salary of deputy sheriffs pursuant to section 25-604, R.C.M. 1947, which provides in part:

> ... In fixing the compensation allowed the undersheriff the board must fix the same [at] ninety-five per cent (95%) of the salary of the officers under whom such undersheriff is serving; in fixing the compensation allowed the deputy sheriffs the board must fix the same at ninety per cent (90%) of the salary of the officer under whom such deputy sheriff is serving, except in counties of the first, second, or third class in which the board must fix the same at not less than seventy-five per cent (75%) nor more than ninety per cent (90%) of the salary of the officer under whom such deputy sheriff is serving; provided, however, that no deputy sheriff presently employed may be paid less than the compensation he is receiving on the effective date of this act. (Bracketed word supplied)

THEREFORE, IT IS MY OPINION:

> In computing the salary of deputy sheriffs, the salary of the sheriff is to be considered as the sum of columns A and B, plus $1,200 as provided in section 25-605, R.C.M. 1947.

Very truly yours,

ROBERT L. WOODAHL
Attorney General