

**County Officers, Salaries of. Salaries of County Officers,  
When Payable.**

Since the Act of March 2, 1893, was carried forward in our Code, county officers are entitled to receive their pay monthly.

January 19, 1915.

Hon. H. W. Bunston,  
County Attorney,  
Hardin, Montana.

Dear Sir:

I have your communication under date of the 7th instant, submitting to me the following two questions:

1. "Have the county officers in a sixth class county the right to draw their salaries monthly, and without the approval of the county commissioners?"
2. "Can a qualified and acting county officer draw his salary as such, and also compensation as a deputy for another county officer in the same county?"

An answer to your first question requires an examination of the history of the legislation upon this subject. It is true that Section 3117, Revised Codes of 1907, provides that county officers are to receive their salaries quarterly. As will appear from an examination,—this Section seems to have crept into our Code by inadvertence. It was taken from the political code of 1895, where it appeared as Section 4595. It was originally enacted as an Act of 1891, and is found at page 234 of the laws of that year. However, previous to its being included in the laws of 1895, it was amended by the Act of March 2nd, 1893, and the Act of March 9th, 1893, found at pages 57 and 60 of the laws, resolutions and memorials of the State of Montana, passed at the third session of the Legislative Assembly. An examination of these amendments shows that the law was amended to provide for the monthly payment of county officers. We find further that by Section 5136 of the Political Code of 1895, "an Act to amend Sections 3 and 4 of an Act Entitled: "An Act concerning the compensation of county, district and township officers," approved March 6, 1891; approved March 2nd, 1893, was declared to be in full force and effect. That is, the Act of 1893, providing for the monthly payment of county officers, was made a part of the political code of 1895, by an express provision. When the Revised Codes of Montana of 1907 were adopted, this same law was declared to be in force by Section 3566, Revised Codes of 1907. The result is that the Act amending the Act of 1891 is still the law, and county officers are entitled to receive their pay monthly.

As to the second question submitted above, I will say that much depends in answering this question upon the facts of the particular case, that is whether the duties of the two offices conflict, or whether the two offices are incompatible or not. You will find the question discussed, and authorities cited in the previous opinions of this office, found

in Vol. 4 of Opinions of the Attorney General at pages 32 and 487, respectively.

Yours very truly,

D. M. KELLY,

Attorney General.

P. S. As to the necessity of the approval of salary claims by county commissioners, you are referred to the copy of the opinion previously rendered by this office, enclosed herewith.