

of the principal officer, as provided by Chapter 87, Laws of 1943, the minimum salary provided by Section 4873 should be paid.

July 16, 1943.

Mr. Chester E. Onstad
County Attorney
Powder River County
Broadus, Montana

Dear Mr. Onstad:

In connection with Opinion No. 73, Volume 20, Report and Official Opinions of the Attorney General, and the statement in the next to the last paragraph thereof, "the maximum salary allowed (deputies) however, applies to both classes of deputies and assistants," you direct my attention to the fact that in your county and other counties of the state, in certain cases, the principal officer is paid a salary of \$1800.00 per year. The result is the 90% provided by Chapter 87, Laws of 1943, would be \$1620.00, although the minimum salary allowed by Section 4873, Revised Codes of Montana, 1935, for certain deputies would be \$1650.00 per year. You request a clarifying opinion, as my former opinion holds Section 4873, Revised Codes of Montana, 1935, applies to the deputies and assistants therein named.

At the time Opinion No. 73 was written this inconsistency was overlooked, as it must also have been overlooked by the legislature in the enactment of Chapter 87, Laws of 1943. However, the clear legislative intention in Chapter 87 is to increase, rather than decrease salaries.

In *Modesitt v. Flathead County*, 57 Mont. 216, 187 Pac. 911, it was held Section 1, Chapter 222, Laws of 1919 (now Section 4873, Revised Codes of Montana, 1935) provided a minimum salary for the deputies named therein and who are appointed without the consent of the board of county commissioners, and no change has been made in this section at any time since the date of the Supreme Court opinion.

In view of the Supreme Court opinion, and the clear legislative intent in the enactment of Chapter 87, Laws of 1943, it is my opinion that, in those cases where the minimum salary provided by Section 4873, Revised Codes of Montana, 1935, is more than the 90% provided by Chapter 87, Laws of 1943, Sec-

Opinion No. 90.

Counties—County Assessor—Deputies and Assistants—Salaries.

Held: As to those deputies allowed by law, where the minimum salary provided by Section 4873, Revised Codes of Montana, 1935, is more than 90% of the salary

tion 4873 prevails and the minimum salary therein provided should be paid to those deputies who are appointed under Section 4880, Revised Codes of Montana, 1935, as amended by Section 2 of Chapter 87, Laws of 1943, without the consent of the board of county commissioners. In those cases, of course, the salary provided by Section 4873 would be both a minimum and a maximum salary.

Sincerely yours,
R. V. BOTTOMLY
Attorney General