

may appoint any duly qualified and licensed attorney to assist such 'Friend of the Court' when such circuit judge *shall deem legal assistance necessary*, and such attorney appointed shall be paid such sum or sums as the circuit judge shall determine as reasonable for the services performed, from the general fund of such counties by the county treasurer thereof upon orders drawn by the county clerk subject to the proper audit by the board of supervisors or board of county auditors. * * *

(Italics ours.)

Since, as you state, the Friend of the Court in your county *is not an attorney*, it is our opinion that you may appoint the assistant prosecuting attorney to assist the Friend of the Court and pay a salary for the services rendered. The position of assistant to the Friend of the Court, in our opinion, is not incompatible with the office of assistant prosecuting attorney. In many instances the work of both offices goes hand in hand; therefore the assistant prosecuting attorney would not be prevented from holding both positions.

As to whether he may be appointed until further order of the court, it is our opinion that he may be appointed for the time the court deems his services necessary, that is, during the pleasure of the court.

Very truly yours,

JOHN R. DETHMERS,

Attorney General.

CPW:dvw

TAXATION—SOLDIERS' AND SAILORS' RELIEF FUND—Tax of not to exceed 1/10th of one mill to be raised for Soldiers' and Sailors' relief fund must be raised within constitutional 15-mill limitation.

0-3071

January 24, 1945.

MR. LEWIS E. BERRY,
*Prosecuting Attorney,
Cheboygan, Michigan.*

DEAR SIR:

This will acknowledge receipt of your letter of January 19, 1945, requesting an opinion of this office as to whether the tax of not to exceed 1/10th of one mill on each dollar to be levied and collected, as provided by law upon the taxable property of each city for the purpose of creating a fund for the relief of indigent soldiers, sailors, marines, nurses, etc., which tax is provided for in Section 4.1051, Mich. Stat. Ann. 1944 Cum. Supp., must be levied within the 15-mill limitation prescribed by Art. X, Sec. 21 of the State Constitution.

After stating the problem, your letter states your own conclusions thereon as follows:

"It is the opinion of the writer that under the Constitutional amendment imposing a 15-mill limitation, the Soldiers' and Sailors' Relief Fund not being obligation incurred previous to December 8, 1932, would have to come out of the 15-mill tax raised for all purposes * * *".

We are in agreement with your conclusion.

On page 361 in the Biennial Report of Attorney General for the years 1941-42 we note an opinion holding as stated by the syllabus:

"Township tax to defray expense of providing water for fire protection must be within portion of 15 mills allocated to township, and may not be levied as debt service item where obligation was incurred subsequent to December 8, 1932.

We quote from the body of the opinion :

"The test is whether the claim for which the tax is proposed to be levied was a legal obligation of the public body when the amendment became effective. *Wilcox v. Board of Commissioners of the Sinking Fund of City of Detroit*, 262 Mich. 699."

It seems perfectly clear that the purpose for which the tax in question is to be levied does not come within any exception to the 15-mill limitation.

Very truly yours,

JOHN R. DETHMERS,
Attorney General.

EP:rw

ELECTIONS—PRIMARY—No primary election (other than non-partisan elections) is necessary in any district where there is no opposition for any office on any ticket.

0-3073

January 25, 1945.

MR. JAMES J. DUNN,
Prosecuting Attorney,
1602 Central National Tower,
Battle Creek, Michigan.

DEAR SIR:

You state in your letter of January 23 that there is only one candidate for the Republican nomination and only one candidate for the Democratic nomination in your Senatorial District lately represented by deceased State Senator Warren G. Hooper. You ask whether under the circumstances a primary election is necessary.

Section 6.119, Mich. Stat. Ann., being Section 2864, Comp. Laws, 1929, makes provision for the elimination of a primary when there is no opposition within any township, city, county or district for any office upon any ticket.

Although you do not so state, we know that the primary election to which you refer is a special primary election for nominations to fill the vacancy caused by the death of Senator Hooper. We presume that there will be no other candidates than those you mention and no other office voted for than state senator at such special primary. Such being the fact no primary is necessary.

In your letter you mention Section 6.120 Mich. Stat. Ann. Supp. We do not believe this section is applicable to the situation you present as it has to do with *non-partisan* elections. This office heretofore has given its opinion that non-partisan primaries must be held regardless of such section because of the constitutional provision that non-partisan officials must be nominated at a primary, (other than Supreme Court Justices).

Very truly yours,

JOHN R. DETHMERS,
Attorney General.

FOE:rb