

4-24-72 dup.
transmitted to
State Auditor

CLINTON C. CRUMLETT
JUDGE OF PROBATE COURT

LINCOLN COUNTY

April 10, 1972

IVANHOE, MINNESOTA 56142

Honorable Arlen I. Erdall
Secretary of State
State of Minnesota
State Capitol Building
St. Paul, Minnesota

Dear Mr. Erdall:

In the Laws of 1971 - Regular Session, Chapter 951, Section 1, Subdivision 2, Lyon and Lincoln Counties were combined to establish a county court district. Section 1, Subdivision 9 (1) provides in part "In Counties hereby combined into county court districts and for which only one judge is provided, the probate judge of the county having the largest population determined by the last United States census shall be the judge of the county court if he consents, and files his consent prior to July 1, 1972 in the office of the secretary of state." The population of Lyon County is 24,273 and the population of Lincoln is 8,113 as determined by the last United States census. The Honorable B. V. Pierard is Probate Judge of Lyon County and I am Probate Judge of Lincoln County. Subdivision 9 (1) further provides in part "In counties combined into county court districts for which only one judge is provided," and Section 1, Subdivision 5 provides in part "Each county court district shall elect one county judge except:" and the Lyon - Lincoln County Court District does not fall within the exceptions, " a probate judge in any of the affected counties who at the effective date of this act is, or before or at the expiration of his then current term of office will become eligible for retirement pursuant to Section 6 of this act shall not become county court judge upon the effective date of this act, but he shall serve as a judicial officer until his retirement which shall occur not later than the expiration of his then current term of office." An opinion of the attorney general's office stated that the Honorable B. V. Pierard is not eligible to become Lyon - Lincoln County District Court Judge because he will become eligible for retirement during his current term of office.

Section 1, Subdivision 9. (1) further provides in part "If he does not consent, the probate judge of the smaller county shall be judge of the county". Since the Honorable B. V. Pierard is ineligible as stated above herein then I would become county district judge.

Section 6, Subdivision 1 provides "A probate judge who has served as a probate judge or as a probate judge and as a judge of a court of record, or as a probate judge and a referee in probate, and who is not elected, appointed or does not seek election as a county court judge and whose county has been combined with another county to form a county court district and who has served for a period of 10 years shall, upon reaching the age of 65 years, be entitled to receive one half of the compensation allotted to his office for the year 1970

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for the remainder of his life. The compensation allowed however, shall be reduced by 1/24th for each year less than 24 the judge has served at the expiration of his term as a probate judge." The Laws of 1971 - Extra Session, 487.01, Subdivision 9 amends Laws 1971, Chapter 951, Section 1, Subdivision 9 with respect to compensation.

I wish to respectfully state that I do not want to be "elected", "appointed" or "seek" to be County District Court Judge of the Lyon - Lincoln County Court District and I herewith respectfully decline to accept the office of County Court District Judge and wish to avail myself of the provisions of said Section 6, as amended, and become a judicial officer. An assistant Attorney General of Minnesota read to me over the telephone the proposed opinion which states that I may avail myself of the provisions of said Section 6 and substantiating the preceding paragraph herein. That opinion is to be forwarded to our Lincoln County Attorney and a copy sent to me within "a day or two".

On April 4, 1972 the County Boards of Lyon and Lincoln Counties passed a resolution that Lyon and Lincoln Counties will commence functioning as County District Court on May 1, 1972. I presume that the county attorneys of the respective counties involved in this matter will forward copies of the resolutions of their respective counties to your office and the governor's office and to the attorney general.

Thank you very kindly for your assistance and cooperation in this matter.

Yours very truly,

Clinton C. Crumlett

Clinton C. Crumlett
Judge of Probate

CCG:cmn

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

APR 14 1972

Arlen J. Edsall
Secretary of State

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT _____

TO : Carl Dion
Secy of State's Office

DATE: 4-14-72

FROM : Byron Starnes
Asst. Atty. Gen.

SUBJECT: Lincoln County Probate Judge - Clinton Crumlett.
Attached Please find the letter from our office relating to Judge Crumlett's retirement which we discussed on the telephone today. I think it would be advisable for you to attach this to his letter to your office for filing as we discussed.

March 29, 1972

Durward L. Pederson, Esq.
Lincoln County Attorney
Ivanhoe, Minnesota 56142

Dear Mr. Pederson:

This is in response to your letter of March 9, 1972 concerning the status of the Honorable Clinton C. Crumlett, Probate Judge of Lincoln County, under the County Courts Act, Minn. Laws 1971 ch. 951, as amended.

You state that Judge Crumlett is 50 years old and that his present term will end in January, 1975. You indicate that at that time he will have served a little over 23 years as probate judge. You also indicate that he will not seek the office of county court judge and desires to serve out the remainder of his term as a judicial officer.

You ask if Judge Crumlett is eligible at age 65 for retirement benefits under Minn. Laws 1971 ch. 951 § 6. You also ask whether his service as a judicial officer will be treated as service as a probate judge for purposes of computing retirement benefits. In my view both questions should be answered in the affirmative.

Minn. Laws 1971 ch. 951 § 6 subd. 1 provides that a probate judge in a multiple county district who "is not elected, appointed or does not seek election as a county court judge" and has served at least ten years shall be entitled to certain retirement benefits at age 65. It is my position that Judge Crumlett would qualify for benefits at age 65 under this section by not consenting to become the judge of the Lyon-Lincoln County Court.

Service as a judicial officer should be treated as service as a probate judge for purposes of retirement computations. The Act clearly indicates that the county court is a probate court. Minn.

Durward L. Pederson, Esq. - 2

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Laws 1971 ch. 951 § 1 subd. 1. Further such a construction avoids certain constitutional questions. See Minn. Const. art. VI §§ 7-8; Minn. Stat. § 645.17(3) (1969).

I hope this information is of assistance to you.

Very truly yours,

BYRON E. STARNES
Assistant Attorney General

BES:hw

cc: Patrick J. Leary, Esq.
Lyon County Attorney
301 North Third
Marshall, Minnesota 56298

Mr. A. O. Whiteside
Assistant to the State Auditor
309 Administration Building
St. Paul, Minnesota

Hon. Clinton C. Crumlett
Lincoln County Probate Judge
Ivanhoe, Minnesota 56142

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