

4-24-72 sup.
Transmitted to
State Auditor

B. V. PIERARD, JUDGE

PROBATE AND JUVENILE COURTS

LYON COUNTY
MARSHALL, MINNESOTA

April 13th, 1972

Honorable Arlen I. Erdahl
Secretary of State
State of Minnesota
State Capitol Building
St. Paul, Minnesota 55101

Dear Secretary of State Erdahl;

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 County is 8,143 as determined by the last United States Census. I am Probate Judge of Lyon County and the Honorable Clinton C. Crumlett is 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 then current term of office". The opinion of the Attorney General's Office is that I am not eligible to become Lyon-Lincoln County Court Judge because I will become eligible for retirement during my current term of office.

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 ten (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 for the remainder of his life. The compensation allowed however, shall be reduced by 1/24th for

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each year less than twenty-four (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. That I will abide by the attorney general's interpretation of Section 6, advising me that I qualify for retirement and therefore do not intent to file a consent for the County Court Judges position and shall wish to avail myself of the provisions of Section 6, and substantiating the preceding paragraph herein.

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

Yours very truly,

B. V. Pierard
B. V. Pierard
Judge of Probate

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STATE OF MINNESOTA
DEPARTMENT OF STATE
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Arlen I. Erdahl
Secretary of State