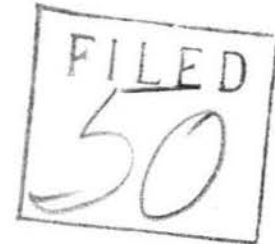


- I. RELATING TO THE METHODS OF COLLECTING DELINQUENT POLL TAX.
- II. RELATING TO THE AUTHORITY OF TOWN AND VILLAGES TO PASS ORDINANCES DISFRANCHISING THOSE SUBJECT TO PAYMENT OF POLL TAX, WHO BECOME DELINQUENT.

September 14th, 1934



Mr. C. J. Kriegshauser  
Baring, Missouri

Dear Sir:

We acknowledge your letter of September 1st, 1934, in which you state and inquire as follows:

"As city clerk of the town of Baring, I have been requested by the town board of said town, to make inquiry of you as to the paying of poll tax. Is there a way we can collect poll tax from those not inclined to pay it? And also do we have the right to refuse the privilege of voting to any one who is entitled to pay the tax and refuses to do so? Thanking you in advance for this information, I remain,"

I.

The law provides method of collecting delinquent poll tax.

Section 7110 Revised Statutes of Missouri 1929, provide as follows:

"The board of trustees shall also, from time to time, provide, by ordinance, for the levy and collection of all other taxes and licenses, including poll taxes, wharfage and other dues, and to fix the penalties for neglect or refusal to pay same, which now or hereafter may be authorized by law or ordinance. All able-bodied male persons, between the age of twenty-one and fifty years, who may have resided with the corporate limits of such village thirty days next preceding the levy of any poll tax for any given year, shall be liable to work on the streets and alleys of such village not to exceed three days, or to pay such sum in lieu thereof as may be provided by ordinance, not in any case, however, to exceed the sum of three dollars; and

upon failure to pay such poll tax, either in cash or by labor, when notified so to do, according to law and the ordinance of such village, it shall be the duty of the town marshal, when ordered so to do by the board of trustees of such village, to bring suit before some justice of the peace, if there be any in such village, and if not, then before some justice of the peace nearest such village, and proceedings shall be had thereon the same as in other civil cases; and no property shall be exempt from seizure and sale upon any execution issued upon any judgment rendered for such poll tax."

It will be observed that the above statute authorizes towns and villages, (and we assume Baring comes within this class) to provide, by ordinance for the levy and collection of poll taxes.

You are further advised that no ordinance so passed by the board of trustees, must be any broader than the statute, authorizing such ordinance, for instance only able-bodied male persons, between the age of twenty-one and fifty years, who have resided within the town or village thirty days next before the levy of such poll tax for any given year, and such levy shall not exceed three days work, or not to exceed \$3.00 when paid in lieu of work.

## II.

Towns and villages have no authority to pass ordinances, disfranchising those subject to payment of poll tax, who become delinquent.

Section 7 article IX of the Constitution provides as follows:

"The General Assembly shall provide, by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four; and the power of each class shall be defined by general laws, so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. The General Assembly shall also make provisions, by general law, whereby any city, town or village, existing by virtue of any special or local law, may elect to become subject to, and be governed by, the general laws relating to such corporations."

It will be observed from the foregoing Constitutional provision, no ordinance may be declared valid that cannot find support in its charter provisions.

In *Kansas City v. Hallett*, 59 Mo. App. 1.c. 163, the court said:

"It is not necessary to invoke the terms of the constitution to announce that the by-laws of a municipal corporation in order to be of any validity, must be consistent with its charter and the general statutes of the commonwealth creating it. This is a well understood principle of the common law. Such ordinances or by-laws must not be repugnant to the legislative policy of the state, as manifested by its general enactments."

It must be understood, that all ordinances passed by the board of trustees of a village or town must be measured by the State Statute on the same subject in order to determine whether or not there are inconsistencies or conflicts.

This department therefore holds that the statute, section 7110 (Supa) authorizes the town board to pass ordinances levying a poll tax, and prescribes the manner of the collection in event of failure on the part of the taxpayer to pay. That such a town or village have no charter authority to pass an ordinance, disfranchising poll tax subjects for failure to pay such tax.

Respectfully submitted,

W. W. Barnes

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Asst. Attorney-General

APPROVED:

          
(Acting)  
Attorney General