

DRAINAGE DISTRICTS--County Court without authority to abate penalties.

TAXATION-----County Court without authority to abate drainage tax penalties.

October 17, 1936 10-20



Honorable S. S. Thompson  
Presiding Judge  
New Madrid County  
New Madrid, Missouri

Dear Sir:

This office is in receipt of your request for an opinion upon the following matter:

"We are asking your opinion on the following proposition with reference to drainage districts organized under the County Courts. During the years 1934 and 1935, we made application to the Reconstruction Finance Corporation to refinance some ten or twelve Drainage Districts in New Madrid County, Missouri. The tax in these Districts were excessive, and we were unable to make collections to meet our interest obligations, and had nothing to apply on the principal. Consequently the Districts were very much in default, and the tax became delinquent for several years. The landowners were advised by the Court that efforts were being made to refinance the Districts, consequently they failed to pay their taxes, due to the fact that if they were refinanced, a compromise would be forthcoming. We were successful in some of the Districts, and succeeded in obtaining a cut of 50% of the original outstanding indebtedness. In some cases a judgment had to be taken to keep some of the taxes from being outlawed. Since this time we find that we will be unable to refinance certain of the districts, and due to the fact that the landowners were waiting to see if the Districts could be refinanced, for which they could not be blamed, in which case they would have saved a great deal of money. Therefore we feel that the interest on the taxes should be

October 17, 1936

abated. Therefore, we desire to ask, in your opinion, if the County Courts have a right to abate interest penalties on Drainage Taxes."

## I.

County Court has no power to abate penalties on drainage taxes.

This office on August 20, 1935, had occasion to direct an opinion to Hon. G. R. Breidenstein, Prosecuting Attorney of Clark County, wherein was presented the authority of the Board of Supervisors to authorize the County Collector to remit the penalties accruing upon delinquent drainage taxes. We are herewith enclosing to you a copy of that opinion. You will note that authorities are there set out to the effect that no board may remit penalties on taxes unless specifically authorized by statute. These authorities are applicable to County Courts as well as to Board of Supervisors. In this connection it should be remembered that county courts are not the general agents of the county but have only such powers and authority as are authorized by statute. In the case of Sturgeon vs. Hampton, 88 Mo. 203, 213, it is stated:

"The county courts are not the general agents of the counties or of the state. Their powers are limited and defined by law. These statutes constitute their warrant of attorney. Whenever they step outside of and beyond this statutory authority their acts are void."

The management of Drainage Districts is placed in a Board of Supervisors, which board, under the statute, has the management and control of the district, but few duties are imposed upon the county court relative to drainage districts. None of these duties comprehend any such act as abating penalties on drainage taxes. No statute is to be found from which this power could be implied. There being a total lack of authority in the County Court our answer must be in the negative.

Hon. S. S. Thompson

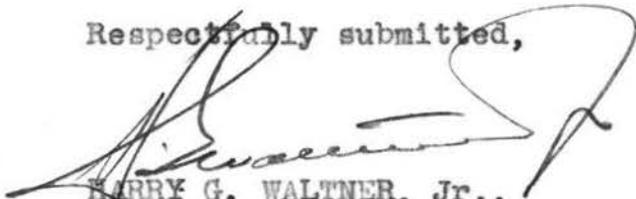
-3-

October 17, 1936

CONCLUSION

It is therefore the opinion of this office that the County Court of New Madrid County is without authority to abate interest on delinquent drainage taxes.

Respectfully submitted,



HARRY G. WALTNER, Jr.,  
Assistant Attorney General

APPROVED:

JOHN W. HOFFMAN, Jr.,  
(Acting) Attorney General

HGW:MM  
Enclosure.