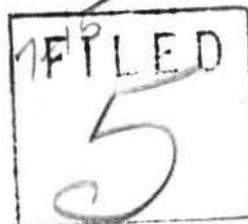


DEPUTY COUNTY COLLECTOR: Need not be twenty one years of age.

July 13, 1938



Hon. William Barton
Representative of Montgomery County
c/o Revision Commission
Jefferson City, Missouri

Dear Sir:

This department is in receipt of your letter of June 28, 1938, in which you request an official opinion as follows:

"What are the qualifications of a deputy county collector in counties around 13,000 population where they do not have township organizations? May a minor qualify for such deputyship?"

We have made a fairly exhaustive examination of the statutes and the Constitution of the State of Missouri, and feel that we are reasonably safe in making the assertion that there is no express legislation or constitutional provisions pertaining to the qualifications of a county collector or his deputies with respect to age.

In view of this fact, we think the provisions of Section 645, R.S. Missouri, 1929, have some bearing upon this question. This section provides as follows:

"The common law of England and all statutes and acts of parliament made prior to the fourth year of the reign of James the First, and which are of a general nature, not local to that kingdom, which common law and statutes are not repugnant to or inconsistent with the Constitution of the United States, the Constitution of this state, or the statute laws in force for the time being, shall be the rule of action

and decision in this state, any custom or usage to the contrary notwithstanding, but no act of the general assembly or law of this state shall be held to be invalid, or limited in its scope or effect by the courts of this state, for the reason that the same may be in derogation of, or in conflict with, such common law, or with such statutes or acts of parliament; but all such acts of the general assembly, or laws, shall be liberally construed, so as to effectuate the true intent and meaning thereof."

The effect of this statutory provision is that the common law is applicable in this state at the present time, unless abrogated by the Constitution of the United States, or the Constitution of Missouri or the statutes of the State of Missouri. As no statute or constitutional provision provides what age a person must be in order to qualify as county collector or deputy county collector, we must apply the provisions of the common law to this situation.

In 46 C.J., page 939, Section 38, it is stated as follows:

"It would appear to be the rule of the common law that minors may not hold offices, the performance of whose duties requires the exercise of judgment and discretion; but that they are qualified for ministerial offices."

In 31 C.J., page 1004, Section 31, the rule is stated as follows:

"At common law infants are eligible to offices which are ministerial in their character and call for the exercise of skill and diligence only; but they are not eligible to offices which are judicial or concern the administration of justice, nor should offices imposing duties to the proper discharge of which judgment, discretion, and experience are necessary be intrusted to infants."

July 13, 1938

Thus, it appears the common law of this country is that infants are eligible to hold offices which are ministerial in their character and call for the exercise of skill and diligence only. Applying the rules as stated in Corpus Juris, we think that an infant may hold the office of deputy county collector in the State of Missouri. However, under these rulings, it does not appear that this would extend to the county collector.

CONCLUSION

Therefore, it is the opinion of this department that the office of deputy county collector may be held by a person under the age of twenty one years.

Respectfully submitted,

RUSSELL C. STONE
Assistant Attorney General

APPROVED By:

J.E. TAYLOR
(Acting) Attorney General

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