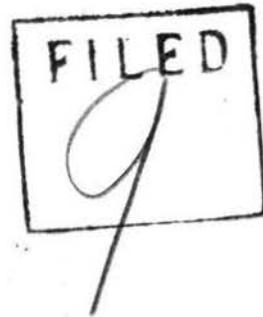


COUNTY COLLECTORS: Hold over until their successors
are qualified.

June 15th, 1939.



Hon. David E. Blanton,
Prosecuting Attorney,
Scott County,
Sikeston, Missouri.

Dear Sir:

We are in receipt of your request for
an opinion, which is as follows:

"I have a situation in my County
about which I would appreciate an
opinion from your office.

"In 1934, One C. E. Felker was
elected Collector of Revenue for
Scott County, Missouri, and quali-
fied and held the office through-
out the period for which he was
elected. In 1938, he was re-elected
to that office and is at this time
occupying the suite in the courthouse
designated for the Collector of
Revenue.

As yet, however, Mr. Felker has not
complied with Section 9885 of the
Revised Statutes of the State of
Missouri, 1929, as amended by the
Laws of 1933 at Page 464, and as
amended by the Laws of 1935 at
Page 408, which Section requires that
the Collector of Revenue in the
various Counties in this State be-
fore entering upon the duties of
his office, shall give bond and

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security to the State to the satisfaction of the County Courts and conditioned that he will faithfully and punctually pay over all state, county and other revenue for the Four (4) years next ensuing the first day of March thereafter and that he will in all things, faithfully perform all duties of the office of Collector according to law.

"Section 9902, R. S. Missouri, 1929, requires that the terms for which Collectors are elected shall expire on the first Monday in March on the year in which they are required to make their last final settlement for the Tax Book which was to be collected by them.

"Section 9887, R. S. Missouri, 1929, provides that if the Collector shall neglect or refuse to give bond as required by the next preceding section, his office shall immediately upon such neglect or refusal, be vacant. The next preceding Section, however, is Section 9886, R. S. Missouri, 1929, which refers to the bond of Ex Officio Collector.

"I am of the opinion that inasmuch as the present occupant of the Collector's suite in the Courthouse has not filed a new bond which has been accepted by the County Court, that he has not qualified for a new term and that he is acting as a carry-over from his first term and is acting without bond. I would appreciate an opinion from you as to the steps to be taken by the County Court to vacate the office

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and as to whether or not section 9887, R. S. Missouri, 1929, refers to Section 9885, R. S. Missouri, 1929, as amended.

"I am sending a copy of this letter to the State Auditor and will appreciate an opinion from his office to the matter set out in this letter."

Section 5 of Article 14 of the Constitution of Missouri reads:

"In the absence of any contrary provision, all officers now or hereafter elected or appointed, subject to the right of resignation, shall hold office during their official terms, and until their successors shall be duly elected or appointed and qualified."

Also Section 11196, R. S. Missouri, 1929, reads:

"All officers elected or appointed by the authority of the laws of this state shall hold their offices until their successors are elected or appointed, commissioned and qualified."

In addition to the above, Section 9883 R. S. Mo., 1929, which is a statute creating the office of Collector of the Revenue, specifically provides that collectors shall hold their office during their respective terms and until their successors are duly elected and qualified. From the above it is apparent that the Collector does not automatically lose his office upon the expiration of his term, which is fixed by Section 9902 R. S. Mo., 1929, but that he

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holds over until he is superseded by a duly qualified successor.

As to the method of creating a vacancy under the situation you outline, we believe that the proper procedure would be for the County Court to make an order fixing the amount of the Collector's bond and setting a date within which the same must be filed. If your Collector fails to comply with this order of court, the proper method for removal would be a quo warranto proceeding, since it has been held that statutes requiring bonds are directory in nature. *Cantley, Commr. v. Mount Moriah*, 49 S. W. (2) 1. c. 277, *State ex Inf. v. Bernoudy*, 36 Mo. 279 and *State ex rel Jackson v. Howard County Court*, 41 Mo. 165.

Respectfully submitted,

ROBERT L. HYDER,
Assistant Attorney General.

APPROVED:

J. E. TAYLOR
(Acting) Attorney General.

JET:RV