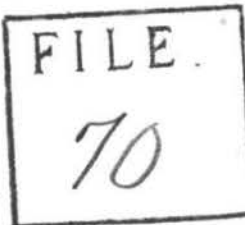


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COUNTIES. : Abolition of township organization  
: creates vacancy in office of county  
: collector, which is filled by the  
: Governor.  
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October 11, 1944

Mr. Hubert T. Perry  
Treasurer and Ex-Officio Collector  
of Carroll County  
Carrollton, Missouri



Dear Sir:

This will acknowledge the receipt of your letter of October 6, requesting an opinion of this office, which is as follows:

"I am Treasurer and Ex-officio Collector of Carroll County, which is under Township organization and I am running for re-election in November to this same office. At this same November election a vote will be taken upon the proposition to abolish Township organization. Should the proposition carry, I would like to know what effect there will be on my office in the event I am re-elected for the ensuing four years. Would I assume the duties of Collector or would an election be required to select a Collector?"

"I will appreciate your early advise."

Section 14023, R. S. Missouri, 1939, provides:

"At any general election holden in this state, in any county having adopted township organization under this chapter, upon the petition of one hundred voters of the county, praying the county court to resubmit the question of township organization to the voters at said election, it shall be the duty of the county court to submit the question again at such election, in like manner as provided in article 1 of this chapter; and if it shall appear, after the canvass of the votes as provided in article 1 of this chapter, that a majority of all the votes cast upon that question shall be against township organization,

then township organization shall cease in said county; and all laws in force in relation to counties not having township organization shall immediately take effect and be in force in such county. " (Underscoring ours.)

Section 13989 provides:

"The county treasurer of counties having adopted or which may hereafter adopt township organization shall be ex officio collector, and shall have the same power to collect all delinquent personal property taxes, licenses, merchants' taxes, taxes on railroads and other corporations, the delinquent or nonresident lands or town lots, and to prosecute for and make sale thereof, the same that is now or may hereafter be vested in the county collectors under the general laws of this state. The ex officio collector shall, at the time of making his annual settlement in each year, deposit the tax books returned by the township collectors in the office of the county clerk, and within thirty days thereafter the clerk shall make, in a book to be called the "back tax book," a correct list, in numerical order, of all tracts of land and town lots which have been returned delinquent by said collectors, and return said list to the ex officio collector, taking his receipt therefor."

Under Sec. 14023 supra, as soon as township organization was abolished all the laws relating to counties not having township organization shall immediately take effect. These laws require a county collector and county assessor as separate and distinct offices. The county treasurer is ex officio collector only in counties under township organization. (See 13,989 supra.) As soon as township organization is abolished the county treasurer ceases to be ex officio collector.

A similar situation to the one here, was considered in the case of State ex inf. John T. Barker v. H. I. Dusean et al. 265 Mo. 26 and the court stated:

"Not to pursue the matter further, we are of the opinion that the result of the election held in Butler County in November 1914, was to discontinue township organization that respondents, Barnhill, Harwell, Osborn, Reading, Kearby, Gardner, Ratcliff, Deaton, Burger, and Phillips were thereby divested of authority to act as ex-officio collector of the revenue of said Butler county, and as collector of the several townships therein respectively \* \* \*."

"\* \* \* The 'laws in force in relation to counties not having township organization' which laws as we see the constitution automatically applied to Butler County provided at the time of the accrual of this vacancy and at the time the Governor filled it and now provide that as to an office like this, such vacancy shall be filled by appointment by the Governor.'"

CONCLUSION.

It is therefore, the opinion of this office that where a county abolishes township organization, a vacancy is created in the office of county collector which is filled by the Governor.

Respectfully submitted

ROBERT J. FLANAGAN  
Assistant Attorney General

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APPROVED:

VANE C. THURLO  
Acting Attorney General.