

January 17, 1962



Honorable Richard E. McFadin
Prosecuting Attorney
Clay County
Liberty, Missouri

Re: Collector-Levee and Drainage
District Commission

Dear Mr. McFadin:

This is in reply to your request for an opinion dated January 8, 1962, concerning the retention by the collector of commissions accruing to him for collecting Levee and Drainage District taxes.

Prior to 1961 the law was, with certain exceptions, that county collectors were to be compensated for their services by salary only. They were to collect the Levee and Drainage District taxes and pay the commission accruing to their office thereon into the county treasury. This is discussed in two prior opinions of this office, one to your predecessor, Mr. Stephen N. Pratt, dated April 11, 1956, and the other to the Honorable William Harrison Norton of the Missouri House of Representatives dated May 5, 1955, copies of which we enclose herewith.

As noted in your letter of request, the Legislature in 1961 amended Section 50.350, adding subsection 2 to the effect that subsection 1 of same should not be construed to prohibit the retention of the commission allowed to the collector in counties having less than 100,000 inhabitants for collection of the said taxes. You will note that that provision is in connection with subsection 1 of Section 50.350 only and goes only to the construction of subsection 1 of that section.

Your question was does Section 13 of Article VII, Missouri Constitution, apply so as to prevent the collector

Honorable Richard E. McFadin

from retaining these fees as an increase in compensation during his current term. Obviously, since he was previously obligated to collect the commission and turn it over to the county treasury but has now been authorized to keep the commissions during his current term the compensation accruing to him during the term has been increased and is therefore prohibited to him by the constitutional provision. We believe that this sufficiently lays to rest your problem.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

HLM:BJ