



December 27, 1962

Honorable William J. Cason
Senator, Missouri Senate
215 East Franklin Street
Clinton, Missouri

Dear Senator Cason:

Your recent request for an opinion from this office involves an interpretation of Section 473.743, RSMo 1959. In particular, you ask the following:

"If the Public Administrator has been duly elected and qualified and has made his lawful and proper bond, and if a person dies in the county intestate and leaving property, and leaving no heirs or persons entitled to administer in this State, is it mandatory that the Probate Court appoint the Public Administrator as the Administrator of the estate if he makes timely and proper application or can the Probate Court appoint any other qualified person that he wishes."

We believe that under the circumstances which you describe, that the Probate Court can either appoint some other qualified person or he may appoint the public administrator. We believe that this is a matter within the sound discretion of the Probate Court. In *Tittman v. Edwards*, 27 Mo. App. 492, the Court held that the relationship of the public administrator and the probate court in appointing administrators was analogous to courts having concurrent jurisdiction and the assuming of jurisdiction by the probate court's appointment or the taking charge of the estate by the public administrator did fix the right to proceed.

Honorable William J. Cason

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It is our understanding that as a practical matter the Probate Courts very commonly do appoint the public administrator in cases similar to the one you submit.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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