

September 6, 1966



Honorable Melvin D. Benitz  
Prosecuting Attorney  
Callaway County Courthouse  
Fulton, Missouri

Dear Mr. Benitz:

Responding to your request for an opinion dated July 27, 1966, respecting interpretation of Section 56.360, RSMo 1959, we enclose herewith a copy of Attorney General's Opinion dated January 7, 1952, to Roy W. McGhee, Jr. which discusses the law in a somewhat analogous situation to the one about which you inquire.

In addition to the statute to which you refer there is also the ethical question which is supervised by the Supreme Court Advisory Committee. We have a copy of the Advisory Committee's Opinion No. 85 in which it rules that it would not be proper for a Prosecuting Attorney to represent a land owner of another county in a condemnation suit brought by the State Highway Commission. We understand that the Committee has informally considered it improper for a Prosecuting Attorney to represent a defendant in a Municipal Court. I would therefore suggest that you might wish to contact Mr. Fred B. Hulse, Chairman, Supreme Court Advisory Committee, Sedalia Trust Building, Sedalia, Missouri, who could give his views on the questions about which you inquire.

Yours very truly,

NORMAN H. ANDERSON  
Attorney General