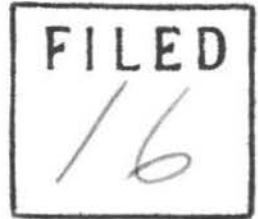


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TOWNSHIP ORGANIZATION: Annual settlement with the county clerk by township trustee required by Section 13967, R. S. Mo. 1939, but audit of the books and accounts of the township trustee by the county clerk is not required by law.

August 22, 1944.



Hon. G. R. Chamberlin  
Attorney at Law  
Harrisonville, Mo.

Dear Sir:

Your two letters dated respectively June 8 and July 6, 1944, have been received and are as follows:

"I am enclosing herewith a few references or notations which I have made for the benefit of our County Clerk.

"This County is under Township Organization and it appears that it has been accustomed for the township trustees to purport to make settlement.

"I am unable to find any specific provision for the trustee for each township to come into the County Clerk with their books and accounts for the Clerk to check over what they have to produce.

"In the sections mentioned in the notations herewith, provision for various settlements and for filing a copy of the settlement with the County Clerk.

"In Section 13967 does provide for a settlement which has been done and been made separate and a part of the annual visitations of the township trustees.

"I would appreciate the benefit of your opinion on the question of any provision for the trustees to bring their books and accounts in before the County Clerk to go over the same with him.

"If this is not required it is certainly an unnecessary burden upon the Clerk.

"Thanking you for this valuable information, I remain"

"I would like to have your valued opinion on the matter of reports which the Township Boards in Counties, under Township Organization made to the County Clerk, or Court. There are several provisions made in making reports to the County Clerk etc., but in this County it seems to have grown to be a custom of each Township Clerk to come in and make a 'settlement' with the County Clerk.

"This takes a lot of time and since this settlement which they make is in no sense an audit, and I do not find any provision of the County Clerk to audit the books of the Township Clerk, except the Statutory provision for the School Money reports and a report to the County Court.

"I would appreciate your opinion and outline on this matter.

"I wrote your office about this some time ago and in some inadvertent way, it was written on my Attorney at Law stationery, it was written as Prosecuting Attorney of this County.

"Thanking you, I remain"

Your letters request an opinion from this department on the questions;

First: Whether the township trustee of a township in a county under township organization shall make an annual settlement with the county clerk of such county, and whether the county clerk shall make an audit of the books and accounts of such township trustee, and;

Second: Whether the clerk of such township in a county under township organization shall make a settlement with the county clerk at any time.

Section 13944, Article 4, Chapter 101, R. S. No. 1939, provides for a biennial election on the last Tuesday of March for township officers. Section 13945 of the same article and chapter designates the title and number of township officers to be chosen at such biennial elections, including one trustee in such township, who shall be ex officio treasurer of the township. Said section is as follows:

"There shall be chosen at the biennial election in each township one trustee, who shall be ex officio treasurer of the township, one township collector, and one township clerk, who shall be ex officio township assessor, one constable, two members of the board, and two justices of the peace: Provided, the same persons may be elected members of the board and justices of the peace, at the same election, and hold both offices; also the same person may be elected constable and collector at the same election and hold both offices at the same time, by taking the proper oath of each office and giving the bond required by law."

Section 13965, Article 7, Chapter 101, R. S. Mo. 1939, requires the township trustee and ex officio treasurer to receive and pay over all moneys raised therein for defraying township expenses. Said section is as follows:

"The township trustee and ex officio treasurer of each township shall receive and pay over all moneys raised therein for defraying township expenses: Provided, that before entering on the duties of his office he shall execute such bond as is required in section 13956; and in case of default, it is hereby made the duty of the township clerk to institute suit thereon, in the name of the township, in any court of competent jurisdiction."

Section 13967, Article 7, Chapter 101, R. S. Mo. 1939, commands the township trustee and ex officio treasurer to keep a complete account and identification of all moneys officially received and disbursed by him in an official record book, and points out the manner in which said record shall be kept respecting each school district and road money belonging to the township.

Then said section proceeds to say that he shall make settlement annually between the 20th day of March and the 15th day of April with the county clerk of all moneys received by him on account of schools, showing how the same have been disbursed, and he shall settle with the county treasurer within 20 days after the apportionment of the school funds to the school district and receive all moneys in the hands of the county treasurer belonging to his township and receipt for the same.

Said section, insofar as it relates to the duties of a township trustee, is as follows:

"He shall keep a correct account of all moneys coming into his hands by virtue of his office, from what source received, and what amount, of

the amount paid out, to whom paid, and on what account, in a book to be kept by him and provided for the purpose by the township; said book to be kept in such a manner as to show the amount of money in his hands belonging to each school district or fractional part in the township and the amount of road money belonging to the township. He shall make settlement annually between the twentieth day of March and the fifteenth day of April with the county clerk of all moneys received by him on account of schools, showing how the same have been disbursed, and he shall settle with the county treasurer within twenty days after the apportionment of the school funds to the school district, and receive all money in the hands of the county treasurer belonging to his township, and receipt for the same, \* \* \*."

The above quoted section does not provide for an audit of the books and accounts of the township trustee, nor is an audit required by any other section of the township organization chapter.

Section 13967 designates precisely what subjects shall be covered in the settlement between the 20th day of March and the 15th day of April of each year between the township trustee and the county clerk. There is no provision made in this section or elsewhere in the township organization plan, as contained in Chapter 101, for a settlement of the other or general accounts of the township trustee with the county clerk. Neither is there found any authority in said chapter for the county clerk to audit the books or accounts of the township trustee. Section 13965, R. S. Mo. 1939, safeguards the moneys coming into the hands of the township trustee by requiring him, before entering on the duties of his office, to execute such bond as is required in section 13956.

Thus, it would appear that the legislature did not contemplate that an audit of the books and accounts of a township trustee should be needed, in view of the requirements for an adequate bond. At least the legislature did not make provision for any such audit.

The duties of the township clerk of a township under township organization are prescribed by Article 8, Chapter 101, R. S. Mo. 1939, consisting of six sections, to wit: 13970 to 13975, inclusive.

It will be observed by careful reading of those sections that there is no provision whatsoever made in any of them requiring the township clerk to make any settlement at any time with the county clerk.

### Conclusion

It is therefore the opinion of this department that the township trustee under the terms of Section 13967, R. S. Mo. 1939, is required to make settlements annually between the 20th day of March and the 15th day of April with the county clerk of all moneys received by him on account of schools, showing how the same have been disbursed, and that he shall settle with the county treasurer within 20 days after the apportionment of the school funds to the school and receive all money in the treasury belonging to his township, and receipt for same, but that such township trustee is not required by any section or article, contained in Chapter 101, R. S. Mo. 1939, on township organization, to make any general settlement of his books or accounts with the county clerk, nor is it required in any part of the said township organization chapter that the accounts or books of the township trustee be presented to the county clerk for an audit thereof, nor that the county clerk shall audit the same.

It is the further opinion of this department that the township clerk of a township in a county in Missouri under township organization is not required by Chapter 101, R. S. Mo. 1939, to make any settlement annual or otherwise with the county clerk of such county.

Respectfully submitted,

EDGAR B. WOOLFOLK,  
Assistant Attorney General

APPROVED:

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ROY McKITTRICK  
Attorney General

EBW.sc  
GWC.