

Relating: 1 To consolidation of offices of County Treasurer and Collector in certain counties.

Relating: 2 To time of election of party county committees.

2-17

February 16, 1934.



Hon. Melvin Englehart  
Prosecuting Attorney  
Madison County  
Fredericktown, Missouri

Dear Sir:

We acknowledge receipt of your letter of December 20, 1933, in which you state and inquire as follows:

"Madison County, Missouri, has a population of less than 40,000. and elected a county treasurer in 1932. The present term of office of the county collector will expire Jan. 1, 1935, and hence the question arises in regard to the application of section 12132a, Laws of 1933, ss. 1.

Under the section quoted above, the collector of counties of 40,000 population or less, will take over the duties of county treasurers and the question is asked of me as to whether the treasurer of this county will assume the duties of the collector after Jan. 1, 1935 and perform such duties until the present term of office of the treasurer expires on Jan. 1, 1937. I see no provision of the section to that effect, but I would like to know the interpretation that your office will place on it. It seems to me that there will have to be a collector elected in 1934 in all counties of less than 40,000 population if such term of office expires in 1935. Am I correct?

It is provided in section 10280 R. S. 1929, that "the county committee shall be composed of the committeemen and committeewomen elected in the several townships at the August Primary next preceding and etc--" does this section mean that the county committeemen and committeewomen shall be elected every two years? The section provides that it shall be done at each primary election held in August."

I.

The term of office of all county treasurers now in office will expire December 31, 1936. Thereafter in all counties having a population of 40,000 or less the county collectors of such counties will become ex-officio county-treasurers.

Section 9883 R. S. Mo. 1929, provides as follows:

"The offices of sheriff and collector shall be distinct and separate offices in all the counties of this state, and at the general election in 1906, and every four years thereafter, a collector to be styled the collector of the revenue, shall be elected in all the counties of this state, who shall hold their office for four years and until their successors are duly elected and qualified: Provided, that nothing herein contained shall be so construed as to prevent the same person from holding both offices of sheriff and collector."

The above section provides for the election of a collector of revenue in all counties of the State at the general election in 1906 and every four years thereafter, that is, they shall hold office for four years. Thus it appears that at the general election in 1934 all of the counties are to elect a collector of revenue for an ensuing four years.

Section 12130 R. S. Mo. 1929, provides as follows:

"On the Tuesday after the first Monday in November, 1912, and every four years thereafter, there shall be elected by the qualified voters of the several counties in this state a county treasurer, who shall be commissioned by the county court of his county, and who shall enter upon the discharge of the duties of his office on the first day of January next succeeding his election, and shall hold his office for a term of four years and until his successor is elected and qualified, unless sooner removed from office: Provided, that in counties having adopted or that may hereafter adopt township organization,

the term of office of said treasurer shall be extended to the first day of April next after the election of his successor."

The above statute provides that at the general election of 1912 and every four years thereafter the several counties shall elect a county treasurer. It thus appears that the term of all present county treasurers will expire December 31, 1936.

The General Assembly at the 1933 session repealed the said Section 12130 supra, and enacted a new section in lieu thereof which provides as follows:

"On the Tuesday after the first Monday in November, 1936, and every four years thereafter, there shall be elected by the qualified voters in all counties of this state now or hereafter having a population of 40,000 or more inhabitants according to the last decennial United States census, and in all counties of less than 40,000 inhabitants if under township organization, a county treasurer, who shall be commissioned by the County Court of his County, and who shall enter upon the discharge of the duties of his office on the first day of January next succeeding his election, and shall hold his office for a term of four years, and until his successor is elected and qualified, unless sooner removed from office: Provided, that in counties having adopted or that shall hereafter adopt township organization, the term of office of said treasurer shall be extended to the first day of April next after the election of his successor."

From the provision of the above section we find that no provisions are made for the election of county treasurers in counties having a population of 40,000 or less according to the last decennial census but only in all counties having a population in excess of 40,000 inhabitants.

Section 12132A Laws of Missouri 1933, p. 338, provides as follows:

"On and after the expiration of the term of office of the county treasurer on the 31st day of December, 1936, in all counties of this state which now or hereafter have a population of less than 40,000 inhabitants according to the last decennial United States census and not under township organization, the county collector shall take over all the duties now performed by the county treasurer and such collector shall be county collector and ex officio county treasurer and shall perform any and all duties now devolving upon the county collector and county treasurer. Such collector shall act as ex officio treasurer and perform the duties attached thereto with no additional remuneration other than such moneys as are allowed by law for his services as county collector, and he shall not be required to give any bond other than the bond given as county collector. All duties and obligations now imposed by law upon county treasurers in counties having a population of less than 40,000 inhabitants according to the last decennial United States census are hereby set over and made a part of the duties and obligations of the ex officio county treasurer as provided for in section 12132a."

Thus we here find that on and after December 31, 1936, the counties having a population of 40,000 and less, according to the last decennial census, the collector of revenue shall take over the duties now performed by the county treasurer, and the said collector shall be county collector and ex officio county treasurer, and shall perform the duties now devolved upon each.

#### CONCLUSION.

It is therefore the opinion of this department that county treasurers now holding office in counties having a population of 40,000 or less, according to the last decennial census, will continue in office until the end of their term, December 31, 1936. Thereafter, in such counties the county collector of revenue will assume all of the duties of the office of county treasurer and will be county collector and ex officio county treasurer, with no additional remuneration.

II.

County Committeemen are elected at primary proceeding the general election on Tuesday next following the first Monday of each even year.

Section 10278 R. S. Mo. 1929, provides as follows:

"At the August primary each voter may write in the space left on the ballot for that purpose the names of a man and a woman, qualified electors of the precinct, or voting district as the case may be, for committeemen for such township, or voting district, and the man and the woman receiving the highest number of votes in such township, or election district, shall be the members of the party committee of the county, or in the case of a city not within the county, of the city of which such voting precinct, or district is a part: Provided, that any qualified elector in any such voting precinct or district may have his or her name printed on the primary ballot, or party ticket on which he or she may desire to become a candidate for committeeman or committeewoman by complying with the provisions of section 10257 R. S. 1929."

Section 10280 R. S. Mo. 1929, provides as follows:

"The county committee, or city committee, as the case may be, shall be composed of the committeemen and committeewomen elected in the several townships, or voting districts, at the August primary next preceding, and shall meet at the county seat of the several counties of this state, and at such place in any city not within a county as the chairman of the then city committee may designate, on the third Tuesday in August of the year in which the primary election is held, and organize by the election of one of its members as chairman, and one of its members as vice-chairman, one of whom shall be a woman, and a secretary and a treasurer, one of whom shall be a woman, but who may or may not be members of the committee."

Section 1 of Article VIII, Constitution of Missouri, provides as follows:

"The general election shall be held biennially on the Tuesday next following the first Monday in November of each even year; but the General Assembly may, by law, fix a different day--two-thirds of all members of each house consenting thereto."

We construe the above statutes in the light of the constitutional provisions to mean, that at the primary proceeding the general election on Tuesday next following the first Monday in each even year, that the electors of each party so desiring may elect a committeemen and committeewomen, qualified electors of the precinct or voting district, for committeeman for such township or voting district as the case may be, and thus elected shall constitute the county committee for their respective parties.

Respectfully submitted,

W. W. BARNES,  
Assistant Attorney General.

APPROVED:

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ROY McKITTRICK  
Attorney General.

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