COUNTY ORGANIZATION: Until election and canvass of vote under
COUNTY COLLECTOR: Sec. 65.610, RSMo, 1949, abolishing town-
COUNTY ASSESSOR: ship organization is had, no vacancy
                       exists in office of county collector
                       and county assessor and filings for such
                       offices prior thereto are not authorized
                       by law.

June 24, 1952

6-25-52

Honorable Garner L. Moody
Prosecuting Attorney
Wright County
Hartville, Missouri

Dear Mr. Moody:

The following opinion is rendered in answer to your recent
request reading as follows:

> "Wright County is a county with township
> organization. A petition has been filed
> to vote out township organization at the
> next general election.
>
> A man has filed for County Assessor and
> another filed for County Collector, both
> filings being proper except for the fact
> that those offices do not exist under our
> township organization, and will not exist
> in this county until after township organiza-
> tion has been voted out.
>
> I would like to know how such filings shall
> be treated, and of what effect they might be
> in the event township organization is voted
> out of this county in the next general elec-
> tion. Or, can a man be elected to a county
> office at the same election that brings such
> office into existence?"

Under the facts outlined in your letter, quoted above, it
is not possible to assume that township organization will be
voted out in Wright County in the general election to be held
in November of 1952. Section 65.610, RSMo, 1949, provides as
follows:

Honorable Garner L. Moody

> "At any general election holden in this
> state, in any county having adopted town-
> ship organization under this chapter, upon
> the petition of one hundred voters of the
> county, praying the county court to resub-
> mit the question of township organization
> to the voters of said election, it shall
> be the duty of the county court to submit
> the question again at such election, in
> like manner as provided in sections 65.010
> to 65.050; and if it shall appear, after
> the canvass of the votes as provided in
> said sections of this chapter, that a ma-
> jority of all the votes cast upon that
> question shall be against township organi-
> zation, then township organization shall
> cease in said county; and all laws in
> force in relation to counties not having
> township organization shall immediately
> take effect and be in force in such county."

A reading of Section 65.610, RSMo, 1949, quoted above,
clearly discloses that township organization in Wright County
will continue until any vote abolishing such organization is
fully canvassed. In the case of State ex inf., v. Duncan,
265 Mo. 26, the Supreme Court was passing on questions aris-
ing out of an election to abolish township organization. One
important question in such case was whether a vacancy occurred
in the county office of collector upon abolishment of township
organization. In treating of this question the Court spoke
as follows at 265 Mo. l.c. 49:

> "This brings us to a consideration of the
> other question in this case; since it follows
> that township organization having been law-
> fully voted out, a vacancy thereby ensued in
> the office of collector of the revenue of
> Butler county." (Underscoring ours.)

Based on the quoted language from State ex inf. v. Duncan,
supra, it must be concluded that until such time as Wright County
abolishes township organization, no vacancy in a county office
of collector and assessor exists to be voted on at any primary
or general election. Consequently, the filings referred to in
paragraph two of your request should be held for naught and no
authority exists for accepting the same.

Honorable Garner L. Moody

CONCLUSION

It is the opinion of this department that until a canvass
of the vote abolishing township organization, taken under authority
contained in Section 65.610, RSMo, 1949, is finally made, no va-
cancy is created in the office of county collector and county as-
sessor, and any filings for such office at a primary or general
election prior thereto are not authorized by law.

Respectfully submitted,

JULIAN L. O'MALLEY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

JLO'M:lw