

COUNTY COURT:) County court may change the boundaries of road
ROAD DISTRICTS:) districts and may organize only one such
district for the whole county.

February 1, 1944



Honorable E. H. Stark
Judge of County Court
District No. One
Miller County
Eldon, Missouri

Dear Sir:

We acknowledge receipt of your letter of January 27, 1944, in which you request the opinion of this department. Your opinion request reads as follows:

"Prior to two years ago all of the road districts lying in that portion of Miller County which is north of the Osage River, with the exception of the Eldon Special Road District, disorganized. None of the special road districts lying in the territory south of the Osage River, including what is known as the Kaiser Special Road District, the Atwell Special Road District, the St. Elizabeth Special Road District, the Big Tavern Special Road District, and the Iberia Special Road District, disorganized. Then the County Court by its order organized the County into two common road districts, Road District No. One, including all of the territory lying north of the Osage River not included in the Eldon Special Road District, and District No. Two, including that territory not included in the other above mentioned special road districts and lying south of the Osage River. By this division the County Court then allocated all of the road funds to the two common road districts in accordance with the taxes collected therein.

"This method of division and distribution was continued until January 3rd of this year. At that time the Court made an order abandoning the two common road districts heretofore formed and organized one common road district for the entire County which includes all of the territory of the County not organized into any special road Districts.

"As the matter now stands, the County Court has the power to use the road revenue in the one common road district in any part it may desire, and it may be seen that while a greater part of the revenue comes from what was, prior to January 3rd of this year, Common Road District No. One, the Court might use all of that revenue in what was prior to January 3rd, Common Road District No. Two, when, as a matter of fact, the assessed valuation of old road district No. Two is much smaller than that of old road district No. One.

"I should like to inquire if under the law the Court has the power to do as it did on this January 3rd, abandoning Common Road Districts No. One and Two, as above set forth, and reorganizing into one county-wide common road district including all of the territory in all of the County not organized into special road districts. I would appreciate your opinion on this question."

Section 3514, R. S. Mo. 1939, provides:

"The county courts of all counties, other than those under township organization, shall, during the month of January, 1918, with the advice and assistance of the county highway engineer, divide their counties into road

districts, all to be numbered, of suitable and convenient size, road mileage and taxable property considered. Said courts shall, during the month of January biennially thereafter, have authority to change the boundaries of any such road district as the best interest of the public may require."

Attention should be directed to the last sentence of the above section of the statutes. The county court in the very words of the statute has "authority to (biennially after the year 1918) change the boundaries of any such road district as the best interest of the public may require." It is entirely within the discretion of the county court to decide whether the best interests of the county will be served by the organization of one, rather than two, general or common road districts.

The question now present is whether the statute in specifying "road districts" (plural) precludes the formation of but a single district consisting of territory co-extensive with the boundaries of the county. In this connection we enclose herewith an opinion dated December 14, 1939, rendered to Honorable Charles E. Murrell, Jr., Prosecuting Attorney, Adair County, Kirksville, Missouri.

Conclusion

It is the opinion of this department that the county court could abandon Common Road District No. One and Common Road District No. Two and form but a single common road district with boundaries co-extensive with those of the county but excluding territory within special road districts.

Respectfully submitted,

RALPH C. LASHLY
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

RCL:EG