

Answer by letter-Wood

September 25, 1969

OPINION LETTER NO. 232

Honorable William R. Royster
State Representative, District 8
1021 Scarritt Building, 818 Grand
Kansas City, Missouri 64106

Dear Representative Royster:

You have asked for my opinion concerning three situations involving the handling of public funds in Jackson County.

The first situation, described in an attached KNBC-TV News Probe, was the transfer of County Road and Bridge Funds to the Little Blue Valley Sewer District. We have previously forwarded to you Attorney General's Opinion No. 193 of June 12, 1969, to Representative William Moore which states my views on this matter.

Your second situation, also described in an accompanying KNBC-TV News Probe, concerns the failure of the county clerk to deposit collected license fees into the county treasury twice yearly since January 1, 1968, with a consequent loss of interest that might otherwise have been earned on these moneys. The News Probe states that these fees were collected in return for liquor, amusement, park, boat, motor and auctioneer licenses and that Missouri law requires the county clerk to pay these fees into the county treasury on the first of January and the first of July of each year.

We find no violation of state law in these stated facts for there is no requirement of a semi-annual turnover of license fees by the county clerk to the county treasurer. The general requirement in handling such fees is as follows:

"2. [In all counties of class one not having a charter form of government the] . . . clerk of the county court is hereby required to prepare and issue all county licenses established by

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law, and collect the county fees therefor and remit the same to the county treasury." (Section 51.280, RSMo Supp. 1967).

Another statute refines this general requirement to some extent:

"All county officers, excepting public administrators and notaries public, in all counties of class one shall be compensated for their services by salaries only. It shall be the duty of any such county officer in any such county to charge on behalf of the county every fee that accrues in or to his office and to receive the same and all fees, fines, costs, commissions, penalties and charges that may be taxed in his office. All such fees, fines, costs, commissions, penalties and charges imposed by law and collected by such officer shall be paid into the county treasury and become the property of the county. The county court of such counties shall determine by a proper order when such fees, fines, costs, commissions, penalties or charges so collected by any of the officers of said county shall be paid and turned over to the county treasury and how they shall be accounted for. . . ." (emphasis added) (Section 50.340, RSMo 1959)

These statutes set forth no particular time limit on depositing county license fees in the county treasury. There is only a requirement that the deposit be made when the county court so orders. If the clerk fails to deposit fees in his possession when ordered to do so by the county court, he would be in violation of Section 50.340, RSMo 1959, and subject to the penalties prescribed by Section 50.380, RSMo 1959.

The author of the News Probe may be in some confusion as to the application of Section 50.480, RSMo 1959, which in part provides:

"It shall be the duty of each sheriff, marshal, coroner, clerk of the courts of record, and other officers, on the first day of January and the first day of July in each year, to pay over all fees in their hands belonging to others to the treasurer of the county, . . ." (Section 50.480, RSMo 1959)

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This section is a part of a law (Section 50.470-50.520, RSMo 1959) enacted in 1874 (Laws 1874, p. 66) relating only to court fees and not license fees.

The third situation you describe is the Jackson County Collector's delay in "sending out the tax bills as required by law," and his failure upon finally sending out the tax bills "to include the specifically required interest and penalty." We are unaware of any statutory duty for collectors of first class counties to send out tax statements to individual resident* taxpayers (as is the duty of second, third, and fourth class county collectors by virtue of Section 52.230, RSMo 1959). The collectors of all counties are required by Section 139.010, RSMo 1959, immediately after receipt of the tax books (on or before October 31 of each year; Sections 137.290 and 137.392, RSMo 1959) to give no less than twenty days notice of the time and place at which they will meet the taxpayers to collect and receive taxes. However, the notice required by Section 139.010, RSMo 1959, is by posting four handbills in each municipal township and by publication for two weeks in a newspaper of the county.

Unpaid real and tangible personal property taxes are delinquent on the first day of January (Sections 140.010 and 140.730, RSMo 1959) and statutory penalties accrue at that time (Sections 140.100 and 140.740). It is the duty of the county collector to collect all delinquent tax penalties and upon his failure to do so he is liable for interest thereon and a penalty of ten percent of the uncollected penalties (Section 139.100, RSMo 1959). Enforcement of the collector's liability may be by a suit on his bond, which is conditioned that he ". . . faithfully and punctually collect . . . all state, county and other revenue . . . and . . . in all things faithfully perform all the duties of the office of collector . . ." (Section 52.020, RSMo 1959).

Yours very truly,

JOHN C. DANFORTH
Attorney General

*Nonresident taxpayers, upon written application, are entitled to receive from the collector a statement of the amount of taxes due on their land. Section 139.060, RSMo 1959.