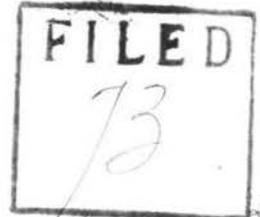


PROSECUTING ATTORNEY STODDARD COUNTY: DRAINAGE DISTRICTS: Board of Super-
visors cannot
appoint special
collectors to
collect tax
when the county
collectors re-
fuse to give
bond for same.

June 1st
1933.

Mr. H. M. Phillips,
Prosecuting Attorney,
Bloomfield, Mo.



Dear Mr. Phillips:-

We acknowledge receipt of a letter of May 9, 1933,
written by Claude E. Arnold of Puxico, Mo., as follows:

"I am connected with the Mingo Drainage District,
Stoddard and Wayne Counties. We are confronted with a
peculiar situation, and the Board of Supervisors has asked
that I get a ruling from the Attorney General's office, if
possible, concerning the matter.

"According to the Statutes of this State, relating
to Drainage Districts organized under Circuit Courts, taxes
for drainage purposes shall be collected by the county
collectors, or in counties having township organizations, by
the township collectors. Since drainage districts have
gotten into such bad conditions, the county collectors of
Stoddard and Wayne refuse to make the necessary bonds to the
district in order to qualify to act as collectors for the
district. Now since this is the situation, what we want to
know is, can the board of supervisors appoint a collector, who
may go ahead and collect these taxes?

"Trusting that you will give us this much needed
information, I am,".

Article 1, Chapter 64, Revised Statutes of Missouri,
Sections 10743 to 10808 inclusive, same being the statutory article
on Drainage Districts by Circuit Courts, sets up the machinery and
functioning powers of said Drainage Districts and their officers.
The powers granted to the Board of Supervisors are closely drawn
and well defined, and no power is given which might permit such
Board to appoint the collectors concerning which it is asked in the
letter quoted above. Such appointments as are to be allowed the
Board are clearly set out as in Section 10750, where it is provided
that the Board shall appoint a chief engineer and assistants; Sec-
tion 10770, providing for the appointment of attorneys; Section 10787
providing for the appointment of overseers, and so on. The statute

Mr. H. M. Phillips

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cannot in any manner be extended to include the power sought here.

After an exhaustive perusal of the Missouri authorities we are unable to find any case directly in point on this particular question, but the language of the Court in the case of Drainage District No. 1 vs. Charles Daudt, 74 Mo. Appeals 579, seems to indicate how our courts would regard such a matter:

"It thus appears that all the jurisdiction of official concern the board of supervisors has or can have of the drainage tax is to make the levy and draw warrants upon the funds of the district after they are collected. With the tax collection they have nothing to do; this is placed entirely in the hands of the collector of the revenue of the county in which the lands to be benefitted are situated."

Sections 10761 and 10796, Revised Statutes of Missouri, 1929, provide for the collection of these taxes by the county and township collectors. In view of these statutory sections, placing on said collectors the duty of executing a bond and collecting such taxes, the proper remedy for your present difficulty would seem to be mandamus.

Very truly yours,

CHARLES M. HOWELL, Jr.,
Assistant Attorney General.

Approved:

Attorney General

CMHJr:LG