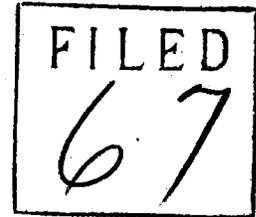


TAXATION: County courts must follow existing statutes until amended to conform to new Constitution.

May 2, 1945



Honorable Robert V. Niedner
Prosecuting Attorney
St. Charles, Missouri

Dear Mr. Niedner:

Under date of April 26, 1945, you wrote this office requesting an opinion about the authority of the County Court of St. Charles County to levy taxes in the year 1945 in conformity with the provisions of Sections 11 and 12, Article X of the Constitution of 1945.

In your letter you state that St. Charles County has an assessed valuation of \$30,000,000 and more.

Section 8527, R. S. Mo. 1939, authorizes a levy of not exceeding twenty-five cents on the hundred dollars valuation for road and bridge purposes. Section 12, Article X of the Constitution of 1945, authorizes a levy for these purposes of not to exceed thirty-five cents on the hundred dollars valuation. There is a definite conflict between the statute and the Constitution.

The same conflicting situation exists between the provisions of Section 11046, R. S. Mo. 1939, as amended by Laws of Missouri, 1943, page 1158, which authorizes a levy of not to exceed thirty-five cents on the hundred dollars valuation in counties having an assessed valuation of \$30,000,000 or more, and Section 11, Article X of the Constitution, which authorizes a levy of fifty cents on the hundred dollars valuation in all counties having an assessed valuation of \$50,000,000.

Section 2 of the Schedule of the Constitution of 1945 is as follows:

"All laws in force at the time of the adoption of this Constitution and consistent therewith shall remain in full

May 2, 1945

force and effect until amended or repealed by the general assembly. All laws inconsistent with this Constitution, unless sooner repealed or amended to conform with this Constitution, shall remain in full force and effect until July 1, 1946."

This section keeps the statutes in force until July 1, 1946, unless sooner amended or repealed.

Conclusion

It is, therefore, the conclusion of this department that the county court in levying taxes in the year 1945, must follow the provisions of the statutes unless they are amended before the court makes the levy.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney General

WOJ:EG

APPROVED:

J. E. TAYLOR
Attorney General