

OPINION NO. 210
ANSWERED BY LETTER
(Kingsland)

May 27, 1964



Honorable Bill D. Burlison
Prosecuting Attorney
Cape Girardeau County
Cape Girardeau, Missouri

Dear Mr. Burlison:

By letter dated May 20, 1964, you requested our opinion on three questions relating to the conduct of the county collector's office in Cape Girardeau County. You enclosed an opinion rendered by your office to the county court in answer to the same three questions.

After carefully reviewing the opinion rendered by you, prior opinions of this office and the applicable statutes, we have reached the following conclusions.

1. It is our understanding that the city and county each own an undivided one-half interest in the courthouse, and there is no formal understanding as to the respective rights of the parties in the actual physical property involved. Under these circumstances, it is impossible for this office to render an opinion as to the legal rights of one of the parties with respect to a certain portion of the property in question. We believe you are correct in concluding that in the event an agreement cannot be reached, this question could only be resolved by a court proceeding.

2. It is also true that Cape Girardeau County no longer falls within the provisions of Section 52.120, RSMo 1959, which made it mandatory for the collector to

maintain a branch office for the convenience of the taxpayers. The question therefore becomes whether the Missouri statutes give county collectors discretion to open a branch office for the convenience of the taxpayers other than the mandatory feature of Section 52.120, RSMo 1959, supra. Section 52.110, RSMo 1959, provides:

"The collector shall keep his office at the county seat, except when meeting the taxpayers; provided, that in all counties in this state in which there is no bank located at the county seat and in which, according to law, two or more terms of the circuit court are held each year in some other town or city than the county seat and in which town or city are located one or more banks, the county collector may, at his option, keep his office in such town or city."

Section 139.010, RSMo 1959, provides:

"It shall be the duty of the collectors of revenue of the several counties of the state, immediately after the receipt of the tax books of their respective counties, to give not less than twenty days' notice of the time and place at which they will meet the taxpayers of their respective counties, and collect and receive their taxes; said notice shall be given by posting up at least four written or printed handbills in different parts of each municipal township in said counties, and by publication for two weeks in a newspaper, if one be published in the county, in which he shall notify said inhabitants to meet the collector at such places in their respective townships as may be named therein, and the number of days, not less than three, that he will remain at each of such places for the purposes aforesaid; and it shall be his duty to attend at the time and place thus appointed

either in person or by deputy, to receive and collect such taxes; provided, the county court may relieve the collector from visiting any municipal township in his county by an order of record to be made before notice under the provisions of this section is given."

In an opinion from this office dated October 4, 1963, addressed to the Honorable Herman G. Kidd, State Representative of Randolph County, it was ruled that the above quoted sections grant authority to all collectors to establish branch offices in locations other than the county seat for the convenience of the taxpayers.

It is therefore our opinion that the county collector of Cape Girardeau County may, in his discretion, establish an office in the Cape Girardeau Common Pleas Courthouse for the convenience of the taxpayers.

3. Although, as noted above, Section 52.120, RSMo 1959, no longer applies to Cape Girardeau County, there are still in effect general statutes applying to the duties of the county to county officers. Included in these general statutes is Section 49.510, RSMo 1959, which provides:

"It shall be the duty of the county to provide offices or space where the officers of the county may properly carry on and perform the duties and functions of their respective offices. Said county shall maintain, furnish and equip said offices and provide them with the necessary stationery, supplies, equipment, appliances and furniture, all to be taken care of and paid out of the county treasury or said county at the time and in the manner that the county court may direct." (Emphasis supplied.)

Honorable Bill D. Burlison

-4-

Under the authority of the above quoted section, it would appear that if the county court is of the opinion that this branch office is necessary for the county collector to "properly carry on and perform the duties and functions" of his office, the county court may provide such office rent free.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

RDK:bjj