

Judges: Salaries begin on qualifying by taking oath of office for all judges. Retiring Circuit Judges have one day in January this year. Number of days in calendar month makes division to calculate divisions of monthly salary.

January 19, 1933

Note appended correction

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Hon. Forrest Smith,
State Auditor,
Jefferson City, Mo.

Att: Mr. E. L. Pigg, Warrant Clerk.

Dear Sir:-

We have your inquiry of January 17, 1933 as follows:

" Will you please advise the Auditor's office concerning pay of the Circuit Judges and the Supreme Court Judges for the month of January. Are the retiring Circuit Judges entitled to one or two days pay, and also what number of days pay are the Court of Appeal Judges and Supreme Court Judges to receive? Is the pay to be divided on the basis of thirty or thirty-one days to the month?"

The terms of the Circuit Judges begin on the first Monday in January next ensuing after their election (Sec. 1937, R.S. Mo. 1929), they shall hold their offices for the term of six years (Sec. 25, Art. VI, Constitution of Missouri).

The result is that a retiring Circuit Judge receives one day's pay only in January, that is for January 1st, if his successor qualifies on the first Monday, which is January 2nd, this year. Of course, if the new judge fails to qualify by taking his oath of office, the retiring judge holds over up to the day of his successor's qualifying, unless the retiring judge disqualifies himself by qualifying in another office or otherwise vacating the office. (Sec. 5, Art. XIV, Constitution of Missouri).

Under Sec. 7, Art. VI, Constitution Missouri, the ten year terms of the Supreme Court judges begin on January first next ensuing after their election, but they are not entitled to the salary of the office until they enter upon the duties of their offices by taking the Constitutional oath of qualification. Under the same Article, Courts of Appeals judges also begin their terms of office on January first, or as soon as they qualify likewise on or after January first (Sec. 1825, R.S. Mo. 1929).

As the annual salaries are paid in twelfth parts or each calendar month, each month's pay where a division is necessary should be divided by the number of days in the calendar month, or thirty-one in January.

As Judge Burney and Tipton qualified on January 2nd, 1933, they will draw thirty-thirty firsts of the January salary of the office, the other thirtyfirst in each case going to their predecessors in office, but Judge Burney, is entitled to one day's salary as Circuit Judge of Jackson County, as his term as such did not expire until the night of January First, 1933.

Judge Hays did not qualify until January 9th, 1933, so that Judge Ragland is entitled to eight days as holding over that long in January after the expiration of his term of office, and Judge Hays is entitled for the same length of time to his salary as Circuit Judge which office he retained until he took his oath of office as Supreme Court Judge.

Respectfully yours,

DENTON DUNN
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General

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