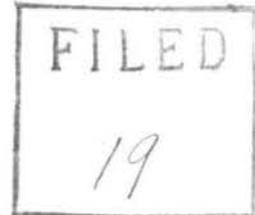


CONSTABLES -- Tenure of office. County court's right to vacate office. Section 11750 R. S. Mo. 1929.

February 14, 1933.



Hon. Edward Gusick
Prosecuting Attorney
Pulaski County
Waynesville, Missouri

Dear Mr. Gusick:

Your recent request for an opinion, addressed to the Attorney-General, has been handed to the undersigned for attention. Your letter states the following:

"Mr. W. H. Tibbs, Constable of Union township, this county has failed to be commissioned since his election last Nov. altho he has been advised and requested to do so by county court, he has however, completed his bond.

I have been requested to get your opinion by the clerk of the county court if said court would be within their authority in removing Mr. Tibbs from office.

Mr. Tibbs was constable heretofore, and was reelected at the Genl. election last Nov."

We had occasion on February 7, 1933, to render an opinion upon this same subject matter to Hon. C. F. Turley, Prosecuting Attorney of Carter County, Van Buren, Mo., and enclose herewith a copy of that opinion which we believe answers your inquiry.

We will supplement this opinion, however, because of the fact that in your County the hold-over constable

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and the constable elect is one and the same person.

The bond as given by the constable covers the term of his office, which is for a period of two years and until his successor is elected and qualified.

Section 11750 R. S. No. 1929, provides the conditions under which a new bond might be required and the power of the court to declare the office vacant upon refusal of the constable to comply with an order of court requiring the filing of additional security or a new bond.

Section 11752 R. S. No. 1929, provides the manner of filling such office in the event of a vacancy.

If, in the judgment of the county court, it should deem the bond of the hold-over constable insufficient in amount or security, it should by its order require that a new bond be given as provided for under these sections of the statute, and, upon failure of the constable to comply with said order within the time required, to declare the office vacant as therein provided and appoint an officer to fill such vacancy.

Yours very truly,

CARL C. ABINGTON
Assistant Attorney-General.

APPROVED: _____

ROY McKITTRICK
Attorney-General.

GCA:EG
Enc.