

PROSECUTING ATTORNEY:

Township assessor who fills a vacancy after a change in law as to compensation is entitled only to compensation under the old law until end of term.

3-14
March 12, 1934.



Mr. Herbert M. Braden,
Prosecuting Attorney,
Chillicothe, Missouri.

Dear Mr. Braden:-

We have your letter of December 30, 1933, in which was contained a request for an opinion as follows:

"I am writing for an opinion as to whether or not a Township Assessor in a county under township organization who filled a vacancy after the change in compensation was made in 1931, is entitled to the increased compensation, or whether he must serve out the term at the 25% rate in effect at the time his predecessor took office."

Article XIV Section 8 of the Constitution of Missouri provides as follows:

"Sec. 8. Compensation of officers, not to be increased nor term extended. The compensation or fees of no State, county or municipal officer shall be increased during his term of office; nor shall the term of any office be extended for a longer period than that for which such officer was elected or appointed."

The applicability of the above section to our question is perfectly clear. The problem which readily presents itself, however, is whether the section refers to the actual individual officeholder or to the term of office as disassociated from any individual. We are of the opinion that it refers to the latter.

In the case of State ex rel. v. Farmer, 271 Mo. 306, the Supreme Court sitting in banc upheld our point of view, Judge Faris at page 314 stating as follows:

"Each official term stands by itself. The constitutional provision forbidding an increase or decrease of compensation during a term of office has reference to the period fixed as a term by statute only, and in no wise refers to the individual who may incidentally happen to be the incumbent for more than one term."

Mr. Herbert M. Braden

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The above case involved a different set of facts but the language used by the Court is unmistakably clear on our point. Applying said language and theory to our set of facts we can say that although the individual officeholders may change one or more times during a term, their rights as such officeholders during that particular term remain exactly the same.

In view of the above, therefore, we are of the opinion that the constitutional provision above quoted forbids the compensating of the township assessor under the new law until the end of the present term.

Very truly yours,

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

CMHJr:LC

Approved:

Attorney General.