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P. G. ...
PUBLIC ADMINISTRATOR - Appointment by the Governor to fill
vacancy is to be filled at the first
general election held after such appoint-
ment.

April 2, 1934

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Honorable R. A. Mooneyham
Public Administrator
Carthage, Missouri

Dear Sir:

Your request of March 29, 1934 for an opinion
as to the duration of a person appointed Public Adminis-
trator August 22, 1933, under an appointment made by the
Governor of Missouri, has been received.

An examination of the Constitution of Missouri
at once reveals that the Public Administrator is a statu-
tory office, as distinguished from "constitutional office".
It was created by an act of the Legislature under and by
virtue of the authority of Section 14, Article IX of the
Missouri Constitution, which provides as follows:

"Except as otherwise directed by this
Constitution, the General Assembly shall
provide for the election or appointment
of such other county, township and mu-
nicipal officers as public convenience
may require; and their terms of office
and duties shall be prescribed by law;
but no term of office shall exceed four
years."

Section 296 R. S. No. 1929 provides that a Public
Administrator shall be elected in every county in this
state in the year 1890 and every four years thereafter.
This statute places the regular election of Public Admin-
istrator in the presidential election years.

A vacancy has occurred in the office of Public
Administrator of Jasper County, and was filled by appoint-
ment of the Governor under Article V, Section 11 of the Mis-

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souri Constitution, and by the provisions of Section 10216 R. S. No. 1929, which in part provides as follows:

"Whenever any vacancy, caused in any manner or by any means whatsoever, shall occur or exist in any state or county office originally filled by election by the people, * such vacancy shall be filled by appointment by the governor; and the person so appointed shall, * continue in such office until the first Monday in January next following the first ensuing general election - at which said general election a person shall be elected to fill the unexpired portion of such term, or for the ensuing regular term, as the case may be, ** "

In construing the above statute, we must bear in mind that "the prime effort of all judicial interpretation is to ascertain what the Legislature really intended in using the particular language".- State ex rel. v. Insurance Company, 224 Mo. 84, l. c. 92. This rule of law prevails as to the duration of an appointment to fill a constitutional office. - State ex. inf. v. Dabbs, 182 Mo. 359 (1904); State ex rel. v. Reach, 269 Mo. 300 (1916).

With reference to a county office, a person appointed to fill a vacancy, holds until the time fixed for the termination of such appointment, and the statute which provides that the appointment of the county officer shall continue until the first Monday in January following the general election, is valid and constitutional. State ex inf. v. Herring, 208 Mo. 708 (1907).

It is, therefore, the opinion of this office that your appointment as Public Administrator of Jasper County for a term ending the first Monday in January, 1935, is limited to that time, and is fully covered by the provisions of Section

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10216 R. S. No. 1929, and that the Public Administrator of Jasper County must be elected at the coming general election for the remaining two years of the unexpired term.

Respectfully submitted,

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APPROVED:

ROY McKITTRICK
Attorney General

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