

Circuit Clerks

Circuit Clerks hold office from the first Monday in January of the year following election until the first Monday in January four years later.

February 2nd, 1935.



Mr. C. E. Jeffries,
Clerk of the County Court,
Neosho, Missouri.

Dear Sir:-

We have your letter of January 22, 1935, in which an opinion is requested as follows:

"There is a difference of opinion between the Newton County Court and the outgoing Circuit Clerk, Claude R. Blakeley. Mr. Blakeley has served as Circuit Clerk for the past eight years and has received \$20,000 for the eight years work. However, he contends that his term of office was over January 1, 1935, and as he stayed in the office until the first Monday in January, is demanding pay from the county court for five days work.

"It is the County Court's opinion that Mr. Blakeley's term was not over until the first Monday in January, and that as he has already received \$2500 for each year's work, is not entitled to the additional salary.

"The court would appreciate very much if you would give your opinion on this matter."

Section 11664 Revised Statutes of Missouri, 1929, provides as follows:

"Sec. 11664. Election--term of office--commission. At the general election in the year eighteen hundred and eighty-two, and every four years thereafter, except as herein provided, the clerks of all courts of record, except of the supreme court, the St. Louis Court of Appeals, and except as otherwise provided by law, shall be elected by the qualified voters of each county and of the city of St. Louis, who shall be commissioned by the governor, and shall enter upon the discharge of their duties on the first Monday in January next ensuing their election, and

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shall hold their offices for the term of four years, and until their successors shall be duly elected and qualified, unless sooner removed from office."

Reviewing the above section with due advertence to the apparent legislative intent, expressed and implied, we are of the opinion that the position taken by the outgoing circuit clerk is untenable.

No where in the section is the date "January first" mentioned. The term of office begins on the first Monday in January and ends on the first Monday in January four years later. Further evidence of this is found, if any be needed, in the use of the words "and until their successors shall be duly elected and qualified". Obviously, the new circuit clerk cannot, under any conditions, qualify until the first Monday in January. Of course, should the new circuit clerk for some reason fail to qualify until a later date than that set by statute, there might be some merit to Mr. Blakeley's contention, but we need not pass on that here.

When, however, the new circuit clerk qualifies on the date set by statute, no question of additional compensation for the outgoing clerk can be considered. To hold otherwise would be to nullify, in part, not only the above quoted section but also section 11786 Revised Statutes of Missouri, 1929, providing the amount of annual compensation due circuit clerks for if we adopt Mr. Blakeley's view, there would almost always be extra days, and compensation therefor, to consider.

Both by the language, therefore, and by the clear legislative intent of section 11664 are we committed to the view that the term in question ends not on January first but on the first Monday in January.

Very truly yours,

CHARLES M. HOWELL, Jr.
Assistant Attorney-General.

CMH jr:MB

APPROVED:

Attorney-General.