

JUSTICES OF THE PEACE: Terms of office of appointees,
under Section 2136-a, Laws of
Missouri, 1935.

June 15, 1936.

Honorable Edwin D. Franey
Attorney at Law
Mississippi Valley Trust Building
506 Olive Street
St. Louis, Missouri

Dear Sir:

We acknowledge your request for an opinion dated
May 26, 1936, which reads as follows:

"I am writing you in connection
with Section 2135-A, Revised Statutes
of the State of Missouri, which has
to do with the terms of office of
Justices of the Peace appointed by
the St. Louis County Court. One of
the Justices of the Peace has asked
that I ascertain whether or not the
statute as interpreted by you
would provide that those Justices
appointed in the year of 1935 would
hold their offices until the year of
1938. There has been some question
in the mind of the sitting Justices
on this question and I would be glad
to have you advise me so that I may
in turn advise them as to just what
their situation is in view of the
express provision of the statutes.
You will recall that the St. Louis
County Court created several town-
ships in St. Louis County and ap-
pointed Justices to the several
offices, and it is in connection with
these gentlemen that I write you."

Laws of Missouri, 1935, p. 210, Sec. 2136-a, provide
as follows:



"In all municipal townships which have been divided, or may hereafter be divided, into justice of the peace districts and in which the boundary of the municipal township is or may be extended beyond the boundaries of said justice of the peace districts, the county court of the county in which said township is or may be located is authorized and empowered to appoint and commission not to exceed two additional justices of the peace for such township when, in the opinion of said county court, there is need for such justices of the peace, who may maintain their offices at any convention place in said township and who shall take the same oath and have the same duties, qualification and jurisdiction as other justices of the peace of such township. The justices of the peace first appointed under this section of the statute shall hold office till the general election day in 1938, and all other justices of the peace thereafter appointed hereunder shall hold office for a term of four years: Provided that said office shall terminate at any time the aforesaid justice of the peace districts are extended so as to include all of the territory of such township. * * *All acts or parts of acts in conflict herewith, to the extent of such conflict, are hereby repealed."

Article XIV, Section 5, Missouri Constitution provides:

"In the absence of any contrary provision, all officers now or hereafter elected or appointed, subject to the right of resignation, shall hold office during their official terms, and until their successors shall be duly elected or appointed and qualified."

CONCLUSION.

Under our Constitution there will be a general election on the first Tuesday after the first Monday in November, 1938. Section 2136-a, supra, does not provide for the election of Justices of the Peace, but rather provides the power in the County Court of certain counties to appoint Justices of the Peace, in addition to those and in possible exclusion of those now holding office. Said Section also provides the duration of said appointee's office.

Under our Constitution and Section 2136-a supra, pursuant thereto, additional Justices of the Peace in St. Louis County who are appointed prior to the general election in 1938, hold the office continuously until the general election day in November 1938, and pursuant to the Constitution may continue in office thereafter until a successor be appointed and qualified, unless the office be sooner vacated by death, misconduct or resignation.

Under our Constitution and Section 2136-a, pursuant thereto, the County Court in St. Louis County is empowered to appoint other Justices of the Peace in lieu of those who were thereby appointed for the term prior to the general election of 1938, and when such is done the person appointed and qualified is the legal holder of the office, and holds the office for a four year term, and pursuant to the Constitution may continue in officethereafter until a successor be appointed and qualified, unless the office be sooner vacated by death, misconduct or resignation.

Respectfully submitted

APPROVED:

WM. ORR SAWYERS
Assistant Attorney General.

ROY McKITTRICK,
Attorney General.

WOS:H