

ELECTIONS: Registrars in cities of 10,000 to 30,000 population should be elected every two years.

October 1, 1938

Hon. Edwin L. Kies, Clerk
Cape Girardeau County Court
Jackson, Missouri



Dear Sir:

We acknowledge receipt of your recent opinion request which reads as follows:

"At the General Election in November, 1934 and again in November 1936, Registrars were Elected for the City of Cape Girardeau. These registrars were elected in November 1936 and commissioned for a term of four years. Now it appears that according to Section 5 page 241, Laws of Missouri, 1933, registrars were to be elected in 1934 for a term of four years, expiring 1938.

"I would like for you to advise me at the earliest possible date if the registrars elected in November 1936 for a term of four years would be re-elected for four years in November 1938 or would they hold over until 1940.

"I shall appreciate this information at once, as it will be necessary for the committees of both parties to meet and select their respective candidates, if registrars are to be elected in the November Election of this year."

Registration in cities of 10,000 to 30,000 population is governed by an act found at page 239, Laws of 1933. Section 5 of said act provides for election of registrars in the following language:

"In all cities of this state which now contain or may hereafter contain 10,000 inhabitants and less than 30,000 inhabitants, at each general election for State officers, there shall be elected, in each election district or ward of such cities, by the qualified voters of such election district or ward, one registrar of election, who shall have the qualifications of an elector in his election district or ward and be the owner of real estate in this State, and who shall hold office for four years and until his successor is elected and qualified."

A reading of the foregoing section reveals inconsistent provisions within it. The section provides that at each general election for state officers, registrars shall be elected, while at the same time, it provides that such registrars shall hold office for four years. A "general election" is defined by Section 655, R.S. Missouri, 1929, as "the election required to be held on the Tuesday succeeding the first Monday of November biennially". Some state officers are elected at each biennial election. It would appear, therefore, that there is a general election for state officers every two years, and if registrars are required to be elected at such elections, they could not hold office for four years, since at the end of the first two years the law would require other registrars to be elected. The question then is, what did the Legislature mean by these conflicting provisions?

It is elementary that in construing a statute, we should attempt to ascertain the intention of the Legislature, and in this attempt, efforts should be made to harmonize apparently conflicting provisions. Following this rule of construction, we might conclude that the terms "general election for state officers" referred to presidential elections at which most of the state officers are elected. However, Section 30 of the act, which is the last expression of the Legislature in connection with the matters in the act, provides that the registrars who had been elected at the November election in 1932 should continue in office until the general election in 1934. This clearly shows that the Legislature intended that new officers should be elected at the general election in the year 1934 which was not a

presidential election. It, therefore, seems clear that the Legislature intended that the registrars should be elected every two years.

In trying to arrive at the legislative intent in these conflicting provisions, we think it will be necessary to follow the rule of construction that the last expression of the Legislature in the law must prevail. That rule is stated in 59 C.J. 999 in the following language:

"In the consideration of conflicting provisions in a statute, the great object to be kept in view is to ascertain the legislative intent, and a construction which best secures the rights of all the parties affected has been held a proper construction. In accordance with the principle that the last expression of the legislative will is the law, in case of conflicting provisions in the same statute, or in different statutes, the last in point of time or order of arrangement prevails. However, this is a purely arbitrary rule of construction, which is subject to the rule that the statute must be construed as a whole to find the legislative intent, and has no application where the prior section or provision is more in harmony with the general purpose of the act, or where the literal interpretation of the later section would nullify the whole act, and is to be resorted to only when there is clearly an irreconcilable conflict and all other means of interpretation have been exhausted."

The last expression of the legislative will in the act under consideration indicates clearly that the Legislature intended that registrars be elected at each general election. We think, therefore, that this provision will have to prevail over the provision of Section 5 which says that the registrar shall hold office for four years. This is especially true when the first part of Section 5 provides definitely that "at each general election for state officers, there shall be elected, * * * one registrar of election".

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This language is plain and definitely requires the election of registrars every two years. This provision, taken with Section 30 of the act, clearly shows that the Legislature intended that registrars should be elected at every general election at which state officers are elected. The only way that we can give the statute meaning at all in the face of the conflicting provisions is to hold that the provisions requiring the election of registrars at each general election takes precedence over the provision that the registrars should hold office for four years.

CONCLUSION

It is, therefore, the opinion of this office that registrars of election in cities of 10,000 to 30,000 population should be elected at each general election for state officers and that they would hold their terms for two years.

Respectfully submitted,

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APPROVED By:

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