

OFFICERS: Oath of office to a member of the County Court may be administered in any state
OATH OF OFFICE: by any person authorized to administer oaths.

January 6, 1943

Mr. Llyn Bradford
Prosecuting Attorney
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Rolla, Missouri



Dear Sir:

This is in reply to yours of recent date wherein you submit the following facts and question:

"This is to advise that the newly elected Presiding Judge of the Phelps County Court is in another State, out in the east, seriously ill and incapable of getting back to this State and County to qualify and take the oath of office. It has been suggested by some of his friends that the Commission might be sent out to him, for him to sign and take the oath of office before someone out there capable of administering oaths, and that he might qualify in that manner. However, there are indications that his right to qualify in that manner may very probably be challenged, many contending that the old Presiding Judge should hold over until the next election, in the event the newly elected Judge fails to return to Missouri and qualify before the County Clerk as ordinarily done."

Section 6 of Article XIV of the Constitution of Missouri provides as follows:

"All officers, both civil and military, under the authority of this State, shall, before entering on the duties of their re-

spective offices, take and subscribe an oath, or affirmation, to support the Constitution of the United States and of this State, and to demean themselves faithfully in office."

Under Section 2475, R. S. Mo. 1939, judges of the county court are elected. This section also provides that such judges shall hold their office for a certain period of time therein named and until their successors are elected and qualified.

Section 2478, R. S. Mo. 1939, provides as follows:

"The clerks of the county courts shall certify to the governor the names of the persons elected as county judges, and the governor shall thereupon commission all such persons as judges of the county courts for the respective terms for which they may have been elected."

We find nothing in the statutes relating to the oath of office to be taken by the judge of the county court, however, the foregoing constitutional provision makes this provision.

Under Section 1 of Article IV of the Constitution of the United States it is provided as follows:

"Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other State. * * * * *"

Under this section we might say that provisions are made for the State of Missouri to give full faith and credit to oaths administered in other states. However, we think your question is directly answered by the provisions of Section 1885, R. S. Mo. 1939, which is as follows:

"Whenever any oath or affirmation is required by law to be taken before a particular court or officer, the same may be done before any other court or officer empowered to administer oaths, unless it is expressly prohibited; and when no court or officer is named by whom an oath may be administered or affidavit taken, the same may be done by any court or officer authorized to administer oaths."

It will be noted that this section does not limit to the State of Missouri the place in which an oath or affidavit may be administered. Since the law pertaining to judges of the county court, the constitutional provision and the statute first hereinabove referred to, do not limit the place in which an oath may be administered, then it follows that oaths or affidavits may be administered by the proper officer in any county or state in which such officer has jurisdiction.

CONCLUSION

It is, therefore, the opinion of this department that a person who is elected to the office of judge of the county court in this state may take the oath of office before any person capable of administering oaths, either within this state or without the boundaries of the state.

Respectfully submitted,

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APPROVED:

ROY MCKITTRICK
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TWB:CP