

LEGISLATURE; Duly elected officers of the House of Representative entitled to compensation as provided by law until the end of the session in which they have been elected, unless sooner removed by the members of the Legislature.

July 27, 1945



Honorable James F. Dent
Representative of Dent County
Jefferson City, Missouri

Dear Sir:

We are in receipt of your written request for an opinion, which reads as follows:

"I am hereby submitting my request for an official opinion as to whether employees listed under Rule 25 of the Rules of the House for the Sixty-third General Assembly of Missouri, are entitled to pay subsequent to the recess of the House on June 29th, 1945."

Section 18, Article III of the Constitution of Missouri of 1945, provides as follows:

"Each house shall appoint its own officers; * * * may determine the rules of its own proceedings, except as herein provided; * * *"

Pursuant to the above constitutional provisions the House of Representatives in proper manner has adopted rules of the House for the Sixty-third General Assembly of Missouri, and among these rules is Rule 25, which provides as follows:

"The House shall, at the commencement of each session, and as soon as may be necessary, elect a Chief Clerk, an Assistant Chief Clerk, a Clerk of the Committee of Bills Perfected and Printed, a Clerk of the Committee on Bills Agreed To and Finally Passed, a Reading Clerk,

a Doorkeeper, a Sergeant-at-Arms, an Official Reporter, a Chaplain, a Postmaster, a Chief Stenographer, and an Assistant Chief Stenographer, who shall hold their offices until the end of the session in which they shall have been elected, unless sooner removed by a vote of the members present, and who shall be entitled to such compensation as may be provided by law. They shall respectively take the oath to support the Constitution of the United States and of this State and faithfully demean themselves in office and keep the secrets of the House, which oath shall be administered by the Speaker."

Rule 145 of the Rules of the House for the Sixty-third General Assembly provides as follows:

"No standing rule or order of the House shall be dispensed with, except by unanimous consent or unless a constitutional majority concur therein, and motions for that purpose shall be limited to the question or proposition under consideration."

Under the rules quoted above, after the House has duly elected the officers as provided for in Rule 25, supra, the officers named therein hold their offices until the end of the session in which they have been elected, unless sooner removed by a vote of the members present, and are entitled to such compensation as may be provided by law.

Because of Rule 145, supra, Rule 25, supra, may not be abrogated or changed in any manner, except by unanimous consent or unless a constitutional majority concurs in such action.

In *Marchants Exchange v. Knott*, 212 Mo. 616, 1. c. 640, the court gives the following definitions:

"* * * Briefly, legislative power is the power to make laws. What is a law? 'Municipal law,' says Chancellor Kent, 'is a rule of civil conduct prescribed by the supreme power of a state.' (1 Kent Com. (14 Ed.), 447.) That definition is part of Sir William Blackstone's, which

adds, 'commanding what is right and prohibiting what is wrong.' In his notes to Blackstone (1 Sharswood's Blk. Comm., p. 44) Judge Sharswood defines a law to be: 'A rule of civil conduct prescribed by the supreme power in a State, commanding what is to be done, and prohibiting the contrary.'

"Now, a rule is a rule, as distinguished from whim, caprice, compact, agreement, or mere discretion. 'Prescribed' means that the rule must not remain in the breast of the Legislature but shall be manifested and published in a public and conspicuous manner so as to be known as a rule of civil conduct. (1 Blk., p. 45.)* * *"

Then, when the Legislature, acting within its power, adopts certain rules as the supreme power of the State of Missouri and publicly acknowledges these rules governing its conduct, they should be as jealously guarded and followed as any other law of the land.

Conclusion

Therefore, it is the opinion of this department that the officers of the House of Representatives that are listed under Rule 25 of the Rules of the House for the Sixty-third General Assembly, hold their offices until the end of the session in which they have been elected, unless sooner removed by a vote of the members present and during this period that they hold their offices they are entitled to such compensation as may be provided by law.

Respectfully submitted,

A. V. OWSLEY
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APPROVED:

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AVO:EG