

CONSTABLES: Power and duties in all counties except first class counties and the city of St. Louis after June 30, 1946.

2 P G. Smith

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June 15, 1946

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Mr. Henry C. Walker
Prosecuting Attorney
Dunklin County
Kennett, Missouri

Dear Sir:

This department is in receipt of your request for an opinion, based on the following facts:

"There have been several questions raised in this County by the Constable and other officers in reference to what effect the new Constitution and the laws passed in reference to same will have upon the Constable's duties and fees after June 30, 1946.

"Will the Constables who now are duly elected, qualified and acting continue to serve with the same duties and collect the same fees as now until the expiration of the term for which they were elected?

"If not, what will their status, compensation and duties be?"

The present General Assembly has passed Senate Bill No. 361, which relates to the question you asked and which is as follows:

"Section 1. That Sections 13370 as amended by an act of the 61st General Assembly, approved August 2, 1941, appearing in Laws of Missouri, 1941,

at page 325, and as further amended by an act of the 61st General Assembly, approved August 2, 1941, appearing in Laws of Missouri, 1941, at page 326, and Sections 13371 to 13381, both inclusive, the same being all of Chapter 97 of the Revised Statutes of Missouri, 1939, entitled 'Constables', be and the same are hereby repealed.

"Section 2. This act shall become effective on January 1, 1947, except that in counties in which the present terms of constables end after January 1, 1947, this act shall take effect at the expiration of the present terms of constables in said counties."

Section 1 of the above bill provides for the repeal of all existing statutes relating to the office of constable.

Section 2 of the above bill provides that the act shall become effective on January 1, 1947, except in counties in which the present term of constable ends after that date, and then it shall take effect at the expiration of the present term of the constable.

The General Assembly has also passed Senate Bill No. 362, relating to the powers and duties now exercised by constables, which is as follows:

"Section 1. Whenever the word 'constable' appears in any statute, except insofar as any such statute applies to the City of St. Louis and to counties of the first class, the same shall hereafter be deemed to refer exclusively to and to mean 'sheriff' unless such construction is plainly repugnant to the context of any such statute.

"Section 2. This act shall become effective on January 1, 1947 except that in counties in which the present terms of constables end after January 1, 1947, this act shall take effect at the expiration of the present terms of constables in said counties."

Mr. Henry C. Walkor

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As can be readily seen, the sheriff of each county, except counties of the first class and the city of St. Louis, will generally exercise the powers and duties now exercised by the constable's office.

Senate Bill No. 362 has the same effective date as Senate Bill No. 361. Since these acts are not effective until January 1, 1947, or at the expiration of the term of office which the constable is now holding, the present statutes will remain in force and effect until that time. Those statutes prescribe the duties, powers and compensation of the constable.

Conclusion.

It is the opinion of this department that the constables now holding office in all counties, except first class counties and the city of St. Louis, will continue to hold office until January 1, 1947, or until the expiration of their present term if after January 1, 1947, and will continue to perform the same duties and collect the same fees as now provided by law.

Respectfully submitted,

W. BRADY DUNCAN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WED:ml