

SHERIFFS:

CONSTITUTIONAL LAW: RE: Under the new Constitution and the present law the sheriffs of the counties of the state may succeed themselves in office.

August 19, 1946



Representative Charles A. Witte  
116 East Monroe  
Kirkwood 22, Missouri

Dear Mr. Witte:

We are in receipt of your letter requesting an opinion of this office, which letter reads as follows:

"Please furnish me with an opinion on whether an incumbent sheriff, elected in 1944 and whose term will expire in 1948, can, under the new Constitution and the present law, succeed himself or become a candidate for that office."

Article IX, Section 10 of the Constitution of 1875 reads, in part, as follows:

"Sec. 10. Election of sheriff and coroner.-- There shall be elected by the qualified voters in each county on the first Tuesday next following the first Monday in November, A. D. 1908, and thereafter every four years, a sheriff and coroner. They shall serve for four years and until their successors be duly elected and qualified, unless sooner removed for malfeasance in office. Before entering on the duties of their office, they shall give security in the amount and in such manner as shall be prescribed by law, and shall be eligible only four years in any one period.  
\* \* \*"

This constitutional provision limited a sheriff to only one term at any one period. There is, however, no such provision in the Constitution of 1945.

There is to date no statutory provision which would limit any sheriff to one term at a time. The bill which is the authority for the office of the sheriff in the counties of the state is House Bill No. 683, passed by the 63rd General Assembly and approved by

the Governor. We enclose a copy of this bill for your examination. You will readily note that there is no prohibition on a sheriff succeeding himself in office in this bill.

Furthermore, Section 13126 R. S. Mo. 1939, reads as follows:

"Re-elected, must give new bond.--Should any sheriff be re-elected, he shall give a new bond and security within fifteen days from his election; and should he fail to do so, his former sureties shall not be held liable for any business done by him after the fifteen days expire."

This section has not been changed by any new bill passed with this session of the Legislature. It indicates that there is no such prohibition regarding a sheriff succeeding himself because the provision relates specifically to a sheriff who is "re-elected".

#### CONCLUSION

It is, therefore, the opinion of this department that an incumbent sheriff, elected in 1944 and whose term will expire in 1948, can succeed himself under the new Constitution and the present law.

Respectfully submitted,

APPROVED:

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Assistant Attorney General

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Attorney General

SNC:mw  
Enc.