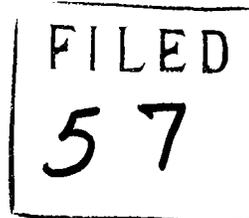


COUNTY OFFICERS:

Tenure of county treasurers elected at general election on November 5, 1946.

February 26, 1947

Honorable G. Logan Marr
Prosecuting Attorney
Morgan County
Versailles, Missouri



Dear Sir:

Reference is made to your inquiry of recent date, requesting an official opinion of this office, and reading as follows:

"The facts show that our County Treasurer was elected in November, 1946. HB No. 729 seems to indicate that county treasurers are elected for four years. Our representative from this county has been advised in the legislature by the legal experts there that our treasurer here is elected for four years.

"Now, after reading that HB clear through, it seems that the county treasurer whose term ends December 31, 1948, holds only two years; but what about the county treasurer who was elected in November, 1946. When does his term end?

"The county clerk has informed me that the election certificate issued to the county treasurer was to go into effect as of January 1, 1947, and for two years only; this certificate was signed by the presiding judge of the county court, and as the chairman of the election board, if Morgan County, Mo., has such an official.

"Therefore, I want an opinion as to whether this county treasurer was elected two years or four years under HB 279."

House Bill No. 729 of the 63rd General Assembly, referred to in your request, repealed Sections 13789 to 13792, inclusive,

of Article 8, Chapter 100, R. S. Mo. 1939. The Act further provides for the election of county treasurers, through the enactment of Section 13789, reading as follows:

"There is hereby created in all the counties of this state the office of County Treasurer. At the general election in the year 1946 and every four years thereafter, there shall be elected by the qualified electors in all counties of this state a county treasurer who shall be commissioned by the county court of his county and who shall enter upon the discharge of the duties of his office on the first day of January next succeeding his election, and shall hold his office for a term of four years and until his successor is elected and qualified, unless sooner removed from office; provided, however, that in those counties wherein the present treasurer's term ends on December 31, 1948, the qualified electors of such counties shall elect a county treasurer at the November election in 1948 and the treasurers so elected shall serve a two-year term but thereafter the term of said treasurers shall be four years; and provided that in counties which have adopted the township alternative form of county government the treasurer's term shall extend until the first day of April next after the election of his successor; provided, further, that the terms of all persons holding the office of county treasurer to which they have been elected or appointed at the time this act shall take effect shall not be vacated or otherwise affected thereby."
(Emphasis ours.)

It is a fundamental rule of statutory construction that if the language contained in a statute is clear and unambiguous, no need for judicial interpretation arises. The rule has been so declared by the Supreme Court of Missouri, in Banc, in *Nordberg v. Montgomery*, 173 S. W. (2d) 387, l. c. 390, from which we quote:

"We think the language of the Statute is plain and unambiguous, and the intent of the Legislature is clear, as we have already found. 'Rules for the interpretation of statutes are only intended to aid in ascertaining the legislative intent, "and not for the purpose of controlling the intention or of confining the op-

eration of the statute within narrower limits than was intended by the lawmaker." Sutherland on Statutory Const., sec. 279. If the intention is clearly expressed, and the language used is without ambiguity, all technical rules of interpretation should be rejected.' State ex rel. Wabash Ry. Co. et al. v. Shain, 341 Mo. 19, 106 S. W. 2d 898, loc. cit. 899, 900."

Giving due regard to this rule, and considering the clear and unambiguous language contained in the statute quoted, supra, with particular reference to the portion thereof which has been emphasized by underscoring, we reach the conclusion that the county treasurers who were elected at the general election on November 5, 1946, are to hold their respective offices for four year terms, commencing on the first day of January, 1947.

It is quite probable that the confusion with respect to the tenure of such county treasurers has arisen as a result of the proviso contained in the quoted statute. We refer particularly to that portion of the proviso relating to incumbent treasurers whose present terms will expire on December 31, 1948.

This situation has arisen as a result of action taken by the 57th General Assembly, which had the effect of abolishing the office of county treasurer in certain counties from and after the first day of January, 1937. This Act was repealed by further action taken by the 59th General Assembly, by virtue of which the office was restored. However, in the restoration a situation was created in which the county treasurers in the counties affected thereby have since been elected to the elections differing from those in the remainder of the counties. Therefore, at the time of the passage and approval of House Bill No. 729 of the 63rd General Assembly, there were, in certain counties, county treasurers whose terms of office will not end until December 31, 1948.

At the time of the enactment of House Bill No. 729 of the 63rd General Assembly, it was not within the power of that body to affect the tenure of the county treasurers holding office under the conditions mentioned, by virtue of the following constitutional provision, found as Section 3 of the Schedule appended to the Constitution of Missouri of 1945:

"The terms of all persons holding public office to which they have been elected or appointed

at the time this Constitution shall take effect shall not be vacated or otherwise affected thereby."

What has been said hereinbefore is also equally applicable to the further proviso found in House Bill No. 729 of the 63rd General Assembly relating to counties in which the township form of county government is in force.

CONCLUSION

In the premises, we are of the opinion that county treasurers who, under existent laws, and particularly under the provisions of House Bill No. 729 of the 63rd General Assembly, were elected to that office at the general election held on November 5, 1946, have a tenure in office of four years, and until their respective successors are elected and qualified, such term commencing on the first day of January, 1947.

Respectfully submitted,

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General