

SHERIFFS: A person appointed to fill a vacancy in the office of sheriff, which vacancy occurred less than nine months prior to the holding of a general election, at which election a sheriff was elected for a full four year term, would continue in the office of sheriff until the first day of the succeeding year and until a person elected to the office at the general election was duly qualified.



January 7, 1957

Honorable G. C. Beckman  
Prosecuting Attorney  
Crawford County  
Steelville, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"We have the following problem in Crawford County, Missouri.

"Mr. Rollen L. Giles, who was the duly elected and qualified Sheriff of Crawford County, Missouri, died on March 26th, 1956. Thereafter, on March 30th, 1956, the County Court of Crawford County, acting under the provisions of Section 57.080, Revised Statutes of Missouri, 1949, appointed Perle Giles, as Sheriff of Crawford County, to fill the vacancy created by the death of Mr. Rollen L. Giles.

"At the general election, held on November 6th, 1956, Mr. Mont Turnbough was duly elected Sheriff of Crawford County, Missouri, and has qualified for this office on November 13th, by filing a bond, which has been approved by the Circuit Judge.

"The present question is as follows: Who is the Sheriff from November 13th, 1956 to January 1st, 1957. Section

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57.080 appears to say that Mr. Turnbough would be Sheriff; while Section 57.010 appears to say that Turnbough would not take over the duties of the office until the 1st day of January, 1957.

"Since the answer to this question is rather urgent, I would appreciate a reply as soon as possible."

Section 57.010, RSMo 1949, reads:

"At the general election to be held in 1948, and at each general election held every four years thereafter, the qualified voters in every county in this state shall elect some suitable person sheriff. No person shall be eligible for the office of sheriff who has been convicted of a felony. Such person shall be a resident taxpayer and elector of said county, shall have resided in said county for more than one whole year next before filing for said office and shall be a person capable of efficient law enforcement. When any person shall be elected sheriff, the clerk of the county court shall deliver to him a certificate of his election, under the seal of the court, and shall also certify that fact to the clerk of the circuit court, who shall file the certificate in his office; and he shall enter upon the discharge of the duties of his office on the first day of January next succeeding his election."

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Section 57.080 reads, in part:

"Whenever from any cause the office of sheriff becomes vacant, the same shall be filled by the county court; if such vacancy happen more than nine months prior to the time of holding a general election, such county court shall immediately order a special election to fill the same, and the person by it appointed shall hold said office until the person chosen at such election shall be duly qualified, otherwise the person appointed by such county court shall hold office until the person chosen at such general election shall be duly qualified;  
\* \* \* ."

It will be noted that Section 57.080, supra, holds that whenever the office of sheriff becomes vacant more than nine months prior to the holding of a general election that the county court shall order a special election to fill the vacancy. It would clearly appear from this section that the person appointed would hold until January 1, 1957. Section 57.010, supra, clearly states that a person elected at the general election in 1948 and at general elections held every four years thereafter, "shall enter upon the discharge of the duties of his office on the first day of January next succeeding his election." It would seem to us that this would leave no doubt regarding the matter, when a sheriff was elected for a full four year term as is the case here.

#### CONCLUSION

It is the opinion of this department that a person ap-

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pointed to fill a vacancy in the office of sheriff, which vacancy occurred less than nine months prior to the holding of a general election, at which time a sheriff was elected for a full four year term, would continue in the office of sheriff until the first day of the succeeding year and until a person elected to the office at the general election was duly qualified.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Very truly yours,

John M. Dalton  
Attorney General

HPW:lc