

FILED  
400

December 10, 1964

Honorable Peter J. Grewach  
Prosecuting Attorney  
Lincoln County  
Troy, Missouri

Dear Mr. Grewach:

This is in response to your Opinion Request No. 400 dated November 25, 1964, in which you have asked several questions concerning the situation in which the young man who has been elected Prosecuting Attorney of Lincoln County has failed to pass the Bar examination and several problems that arise as a result thereof.

1. In our opinion, the person elected Prosecuting Attorney at the November, 1964 election, but who is not duly licensed to practice law as an attorney in Missouri as required by Section 56.010, Revised Statutes of Missouri 1959, cannot qualify on January 1, 1965, to become the Prosecuting Attorney of Lincoln County, and, therefore, forfeits the term. Attached, find copy of opinion to Lon J. Levvis dated April 25, 1961.

2. The incumbent continues or holds over in office until he resigns or until a new prosecutor is duly elected, or appointed, and qualifies. Constitution of Missouri, Article VII, Section 12.

3. If the incumbent resigns on January 1, 1965, and if the Governor appoints a new prosecutor, then such new prosecutor will serve out the full two-year term unless, of course, such new prosecutor should see fit to resign, etc.

Very truly yours,

THOMAS F. EAGLETON  
Attorney General

JGS:10

Attachment