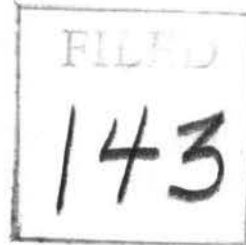


Opinion No. 143  
Answered by Letter (Siddens)

July 20, 1967



Honorable Bill D. Burlison  
Prosecuting Attorney  
Cape Girardeau County  
Cape Girardeau, Missouri

Dear Mr. Burlison:

This is in response to your opinion request dated January 23, 1967, seeking clarification of our opinion to you, No. 127 dated March 21, 1966, and a clarification of the meaning of Section 55.050, RSMo 1959.

Section 55.050 relating to vacancies in the office of County Auditor provides:

"At the general election in the year 1946, and every four years thereafter, a county auditor shall be elected in each county of the second class. He shall be commissioned by the governor and shall enter upon the discharge of his duties on the first Monday in January next ensuing his election. He shall hold his office for the term of four years and until his successor is duly elected and qualified, unless he is sooner removed from office. If a vacancy occurs in the office by death, resignation, removal, refusal to act, or otherwise, the governor shall fill the vacancy by appointing some eligible person to the office, who shall discharge the duties thereof until the next general election, at which time an auditor shall be chosen for the remainder of the term, who shall hold his office until his successor is duly elected and qualified, unless sooner removed."

XERO COPY XERO COPY XERO COPY XERO COPY

Honorable Bill D. Burlison

The last sentence of Paragraph 3, Page 1, of the Burlison opinion which refers to and purports to construe the Dames opinion reads as follows:

"This opinion further holds that on or after that date the Governor may appoint an auditor to fill such vacancy to serve until the end of the term."

This language is unjustified by any other language in the Dames opinion, not in accord with the conclusion of that opinion, and is clearly contrary to the language of the statute. The language of the statute makes it clear that the Auditor shall serve "until the next general election at which time an auditor shall be chosen for the remainder of the term". That language of the statute is clear, explicit and unambiguous. It means that the County Auditor appointed by the Governor on or about January 1, 1967, should serve until the next general election in 1968 at which time a County Auditor will be elected to fill the remainder of the unexpired term.

Yours very truly,

---

NORMAN H. ANDERSON  
Attorney General