STATE AUDITOR: The State Auditor must audit the account
COUNTY OFFICERS: of each county officer, supported in
                          whole or in part by public moneys, at
least once during the term of each such officer. Thus, the accounts
of an officer chosen for a two year term must be audited at least
once every two years and the accounts of an officer chosen for a four
year term must be audited at least once every four years. Such audit
shall be made as near the expiration of the term of the officer as
the auditing force of the State Auditor will permit.

                                        OPINION NO. 445

                September 16, 1970

Honorable John T. Russell
State Representative
District No. 125
P. O. Box 93
Lebanon, Missouri 65536

Dear Representative Russell:

        This is in response to your request for an official opinion
of this office with respect to the following inquiry:

                ". . .Must the audit be performed every two
                years, every four years or within some other
                stated period of time by the State Auditor's
                Office?"

        Your inquiry specifically refers to Opinion of the Attorney
General, No. 434, Russell, August 3, 1970, which held that it is
the duty of the State Auditor to audit the accounts of the various
county officers, in counties of the third and fourth class, sup-
ported in whole or in part by public moneys, at least once during
the term for which any county officer is chosen. That opinion
further held that the time of making such audit during the term of
each county officer shall be as near the expiration of the term
of the county officer as the auditing force of the State Auditor
will permit, as determined by the State Auditor.

        Your opinion request involves determination as to the fre-
quency of audits of third and fourth class counties pursuant to

Honorable John T. Russell

Section 29.230, RSMo 1969. That section provides, in part, as follows:

> "1. In every county which does not elect a county auditor, the state auditor shall audit, without cost to the county, at least once during the term for which any county officer is chosen, the accounts of the various county officers supported in whole or in part by public moneys. The audit shall be made as near the expiration of the term of office as the auditing force of the state auditor will permit."

Counties of the third and fourth class do not elect a county auditor. Thus, Section 29.230(1), RSMo 1969, requires the State Auditor to audit the accounts of the various third and fourth class county officers supported in whole or in part by public moneys.

Three possible constructions may be accorded to this statutory requirement. (1) The accounts of all county officers supported in whole or in part by public moneys shall be audited every two years, since at least one of the county officers supported in whole or in part by public moneys is chosen for a two year term. (2) That the accounts of county officers supported in whole or in part by public moneys shall be audited every four years, since some county officers supported in whole or in part by public moneys are chosen for a four year term. (3) That the State Auditor must audit the account of each county officer supported in whole or in part by ·public moneys at least once during the term of each such officer. Thus, an officer selected for a two year term must be audited once every two years and an officer serving a four year term must be audited at least once every four years.

We conclude the latter construction is the appropriate construction of this statutory provision and, therefore, the State Auditor must audit the account of each county officer, supported in whole or in part by public moneys, at least once during the term of each officer. Thus, an officer selected for a two year term must be audited once every two years and an officer serving a four year term must be audited at least once every four years.

In reaching this conclusion, it has been necessary to resolve two issues. First, since the frequency of the audit is governed by the phrase "at least once during the term for which any county officer is chosen," it is necessary to determine the

meaning of the word "any". Second, whether the audit provided for by Section 29.230(1), RSMo 1969, requires the audit of all county officers within a county, who are supported in whole or in part by public moneys to be made at the same time or whether the audit is with reference to the account of each county officer.

Considering the first issue, the meaning to be subscribed to the phrase "at least once during the term for which any county officer is chosen," and in particular the meaning of the word "any," we have been guided by Section 1.090, RSMo 1969, which provides:

> "Words and phrases shall be taken in their
> plain or ordinary and usual sense, but
> technical words and phrases having a
> peculiar and appropriate meaning in law
> shall be understood according to their
> technical import."

This statutory provision is consistent with rules of construction which have been applied by the courts. In State v. Hawks, 360 Mo. 490, 228 S.W.2d 785, 788 (1950), it was stated:

> ". . . Since no technical language is
> employed in the statute, the words used
> 'will be construed in their ordinary
> sense and with the meaning commonly at-
> tributed to them, unless such construc-
> tion will defeat the manifest intent
> of the Legislature.' . . ."

The word "any" has been commonly construed to be all compre-hensive and synonymous with the words "each", "every" and "all". State ex rel. Randolph County v. Walden, 357 Mo. 167, 206 S.W.2d 979, 983 (1947); State v. Hawks, supra; Wormington v. City of Monett, 356 Mo. 875, 204 S.W.2d 264, 267 (1947); Hime v. City of Galveston, 268 S.W.2d 543, 545 (Ct. Civil App., Tex., 1954); People v. Delgrado, 146 N.Y.S.2d 350, 355 (1955); Reed v. Reed, 332 P.2d 1049, 1052 (Or., 1958); In re Belefski's Estate, 196 A.2d 850, 855 (Pa., 1964); Motor Cargo v. Board of Township Trustees, 117 N.E.2d 224, 227 (Ct. C.P., Ohio, 1953).

Substituting the synonym "each" for "any," Section 29.230(1), RSMo 1969, requires the State Auditor to audit the accounts of the various third and fourth class county officers supported in whole or in part by public moneys at least once during the term for which each county officer is chosen. Said section further directs that the audit shall be made as near the expiration of the

term of office as the auditing force of the State Auditor will permit.

In determining which of the three possible constructions to be accorded to this statutory provision will promote ". . . 'its plain and rational meaning and promote its manifest purpose.'" State v. Hawks, supra, at 788, it is necessary to consider whether the provision requires the audit of the accounts of all the various county officers, within a county, who are supported in whole or in part by public moneys to be made at the same time or whether such audits may be made at different times. In this respect, it is helpful to compare the language employed in subsections (1) and (2) of Section 29.230, RSMo 1969. Subsection (1) provides:

> "In every county which does not elect a
> county auditor, the state auditor shall
> audit, without cost to the county, at
> least once during the term for which
> any county officer is chosen, the accounts
> of the various county officers supported
> in whole or in part by public moneys.
> The audit shall be made as near the ex-
> piration of the term of office as the au-
> diting force of the state auditor will
> permit."

Subsection (2) provides:

> "The state auditor shall audit any po-
> litical subdivision of the state,
> including counties having a county auditor,
> if requested to do so by a petition signed
> by five percent of the qualified voters of
> the political subdivision determined on the
> basis of the votes case for the office of
> governor in the last election held prior
> to the filing of the petition. The po-
> litical subdivision shall pay the actual
> cost of audit. No political subdivision
> shall be audited by petition more than
> once in any one calendar or fiscal year."

Subsection (1) provides for audits on the basis of the various county officers while subsection (2) provides for an audit on a political subdivision basis. This office held in Opinion of the Attorney General, No. 57, Warden, June 18, 1968, that the accounts of a county treasurer of a second class county cannot be singled

out for audit under Section 29.230(2), RSMo 1969. The holding of that opinion and the language of subsection (2) compels us to conclude that the audit provided for by subsection (2) is an audit of all the accounts of the county. Comparison of the language used in subsection (1) with that used in subsection (2), compels us to conclude that the audit provided for in subsection (1) is an audit of each individual county officer who is supported in whole or in part by public moneys.

In reaching this conclusion, we are not unmindful of the provisions of Section 516.130, RSMo 1969, which provides that in certain cases an action against a public officer, upon a liability incurred by the doing of an act in his official capacity and in virtue of his office or by the omission of an official duty, including the nonpayment of money collected upon an execution or otherwise, is barred unless commenced within three years. Notwithstanding, our opinion must be based upon the legal requirements imposed upon the State Auditor by the statutory provision here involved, and not on policy considerations.

CONCLUSION

Therefore, it is the opinion of this office that the State Auditor must audit the account of each county officer, supported in whole or in part by public moneys, at least once during the term of each such officer. Thus, the accounts of an officer chosen for a two year term must be audited at least once every two years and the accounts of an officer chosen for a four year term must be audited at least once every four years. Such audit shall be made as near the expiration of the term of the officer as the auditing force of the State Auditor will permit.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Gene E. Voigts.

Very truly yours,
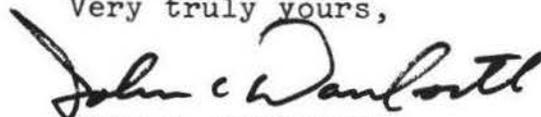
JOHN C. DANFORTH
Attorney General