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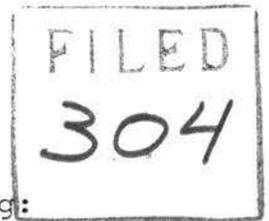
JOHN C. DANFORTH
ATTORNEY GENERAL

December 22, 1972

OPINION LETTER 304

Answered by Klaffenbach

Honorable Frank L. Mickelson
State Representative
Freeman, Missouri 64746



Dear Representative Michelson:

This opinion is in response to your question asking:

"Will the present Cass County Treasurer, who was re-elected on November 7, 1972, take office as County Treasurer on January 1, 1973 or on April 1, 1973?"

You further state that:

"Cass County is presently a third class county with Township Form of government. On January 1, 1973, it will become a Second Class county.

The present County Treasurer was elected in November, 1968, and took office on April 1, 1969. His present term expires April 1, 1973. But on January 1, 1973, Cass county will become a Second Class County."

In our Opinion No. 17, dated Febraury 15, 1972 to Whitcraft, copy enclosed, we held that when a third class county becomes a second class county, pursuant to Chapter 48, RSMo, the alternative form of government, i.e., township organization, ceases to exist.

Section 54.010, RSMo provides:

- "1. There is created in all the counties of this state the office of county treasurer.
2. In counties of classes one and two the qualified electors shall elect a county

Honorable Frank L. Mickelson

treasurer at the general election in 1956 and every four years thereafter.

3. In counties of classes three and four the qualified electors shall elect a county treasurer at the general election in the year 1954, and every four years thereafter, except that in those counties having adopted the township alternative form of county government the qualified electors shall elect a county treasurer at the November election in 1956, and every four years thereafter."

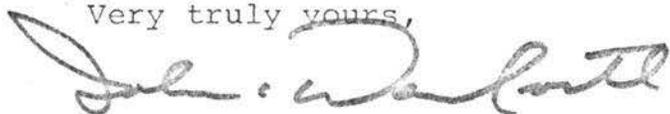
Section 54.030, RSMo provides:

"The county treasurer so elected shall be commissioned by the county court of his county, shall enter upon the discharge of the duties of his office on the first day of January following 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. 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."

The theory which we followed in our Opinions No. 89, dated February 18, 1954 to Toberman and No. 82, dated May 31, 1956 to Simrall, copies enclosed, is in our view applicable in this instance and as a consequence the term of the incumbent does not expire until April 1, 1973 which was the date fixed by Section 54.030 for the expiration of the term of the treasurer at the time of his election under the township alternative form of county government.

Therefore the County Treasurer-elect will take office on April 1, 1973.

Very truly yours,



JOHN C. DANFORTH
Attorney General

Enclosures: Op. No. 17
2-15-72, Whitcraft

Op. No. 89
2-18-54, Toberman

Op. No. 82
5-31-56, Simrall, Jr.