

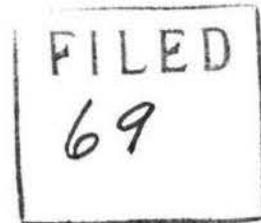
CONSTITUTIONAL LAW:  
UNIVERSITY OF MISSOURI:  
GOVERNOR:

Pursuant to Article IV, Section 51, Constitution of Missouri, persons appointed by the Governor to administrative boards and commissions of the state, including persons appointed to the Board of Curators of the University of Missouri, which appointments were made while the Senate was not in session, but which appointments require confirmation by the Senate, cease to hold office after thirty days from the date the Senate next convened, if the Senate fails to act on said appointments and thereby did not give its advice and consent within thirty days after the Senate convened in special or regular session.

OPINION NO. 69

February 15, 1977

Honorable Norman L. Merrell  
President Pro Tem of the Senate  
Room 423, State Capitol  
Jefferson City, Missouri 65101



Dear Senator Merrell:

This is in response to your request for an opinion of this office concerning the following question:

"Do persons appointed by the Governor to administrative boards and commissions of the state, and in particular persons appointed to the Board of Curators of the University of Missouri, which appointments were made in 1976 while the Senate was not in session, but which appointments require confirmation by the Senate, hold office after thirty days from the date the Senate convened their session, if the Senate fails to act on said appointments and thereby did not give its advice and consent within thirty days after the Senate convened in special or regular session?"

We believe the answer to this question is found in Article IV, Section 51, Constitution of Missouri, which provides as follows:

"The appointment of all members of administrative boards and commissions and of all

department and division heads, as provided by law, shall be made by the governor. All members of administrative boards and commissions, all department and division heads and all other officials appointed by the governor shall be made only by and with the advice and consent of the senate. The authority to act of any person whose appointment requires the advice and consent of the senate shall commence, if the senate is in session, upon receiving the advice and consent of the senate. If the senate is not in session, the authority to act shall commence immediately upon appointment by the governor but shall terminate if the advice and consent of the senate is not given within thirty days after the senate has convened in regular or special session. If the senate fails to give its advice and consent to any appointee, that person shall not be reappointed by the governor to the same office or position." (Emphasis supplied)

We think that this explicit language which we have underlined in Section 51 is clear and unambiguous; and, therefore, it is our opinion that persons coming under the situation stated in your opinion request ceased to hold office after thirty days from the convening of the Senate in this session. We have reviewed Article VII, Section 12, Constitution of Missouri, and Section 172.050, RSMo, and find they are inapplicable because they have been superseded by Article IV, Section 51. Accordingly, such persons having ceased to hold office, they cannot in any way act as members of such boards or commissions and are not entitled to any of the prerequisites of said offices. Until new persons take office, it is then also our opinion that such offices are vacant.

#### CONCLUSION

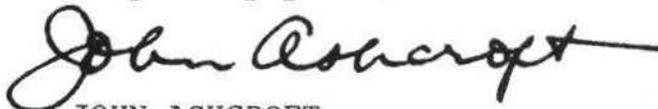
It is the opinion of this office that pursuant to Article IV, Section 51, Constitution of Missouri, persons appointed by the Governor to administrative boards and commissions of the state, including persons appointed to the Board of Curators of the University of Missouri, which appointments were made while the Senate was not in session, but which appointments required confirmation by the Senate, cease to hold office after thirty days from the date the Senate next convened, if the Senate fails to

Senator Norman L. Merrell

act on said appointments and thereby did not give its advice and consent within thirty days after the Senate convened in special or regular session.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Walter W. Nowotny.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Ashcroft", with a long horizontal flourish extending to the right.

JOHN ASHCROFT  
Attorney General