

COUNTY TREASURER:

Treasurer appointed under Section 12130, Laws of Mo. 1937, p. 425, will hold office until January 1, 1939, or until his successor is elected and qualified.

November 18, 1938

Honorable Worth Caughron
Treasurer
Christian County
Ozark, Missouri



Dear Sir:

This Department is in receipt of your letter of November 10th wherein you make the following request for an opinion:

"I was appointed County Treasurer of Christian County in compliance with the act of the legislature as given in 1937 Sessions Acts, Section 12130 page 425. My understanding of this Section is that I will hold office until January 1, 1939.

"Since I was defeated in the November 8th election I would appreciate very much an opinion from your office as early as possible."

The office of county treasurer was abolished by the 1935 General Assembly, and the law became effective on January 1, 1937. The office was recreated by the General Assembly in 1937, and Section 12130, page 425, made the office when created effective immediately after the act was approved; said section being as follows:

"There is hereby created in the several counties of this State, now or hereafter having a population of less than 40,000 inhabitants according to the last Decennial

United States Census, a county treasurer, to be appointed by the Governor, and to take office immediately after the effective date of this Act and who shall enter upon the discharge of the duties of his office after his said appointment and qualification and who shall hold his office for a term ending on the first day of January, 1939, and until his successor is elected and qualified, unless sooner removed from office. Provided, that nothing in this section shall apply to counties under township organization."

The section providing for the filling of vacancies or appointments is Section 10216, R. S. Mo. 1929. The provisions of that section, we do not think are applicable for the reason that the Legislature in recreating the office of treasurer treated the same as a new county office. Therefore, the provisions of the act which created the office, being complete within itself, is the future guide relative to the filling of vacancies or appointments until a legal election can be held. The rule relative to special statutes taking precedence over general statutes is in the instant case applicable.

As Section 12130, supra, specifically provides that the person who is appointed shall serve for a term ending on the first day of January, 1939, and until his successor is elected and qualified, we are of the opinion that you, as County Treasurer, will hold office until January 1, 1939, and until your successor is elected and qualified.

Yours very truly

APPROVED:

OLLIVER W. NOLEN
Assistant Attorney-General

J. E. TAYLOR
(Acting) Attorney-General

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