ELECTIONS:

COUNTY TREASURERS: Failure to elect County Treasurer at proper time does not create vacancy and incumbent holds office until successor is elected at next regular election and qualified.

November 17, 1941

11-24

Honorable William R. Collinson
Prosecuting Attorney
Greene County
Springfield, Missouri

FILE

Dear Sir:

Under date of October 31, 1941, you wrote this office requesting an opinion as follows:

> "On February 12, 1941, I requested an opinion from your office in regard to the County Treasurer of Greene County, Missouri. This request was later withdrawn. I would like to renew that request at this time, and obtain an opinion from your office.
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> "The question is whether or not the County Treasurer of Greene County, Missouri, holds office until the year 1944 at which time there will be a general election.
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> "The County Treasurer of Greene County was elected in the year 1938, under the provisions of Section 13790 R. S. Mo. 1939; said county having at that time a population of between 75,000 and 90,000 inhabitants. At the last decennial United States census, Greene County had a population of over 90,000 inhabitants.

"Section 13792 R. S. Mo. 1939 provides for the election of county treasurers in counties of 40,000 or more inhabitants, except counties of 75,000 to 90,000 inhabitants. This section provides for the election of a county treasurer in said counties in the general election years.

"Since there is no provision for the election of a county treasurer in Greene County in the year 1942, on which date the treasurer's term expires, the question will arise whether the present county treasurer holds over until the general election in the year 1944, at which time a treasurer will be elected under the provisions of the above-mentioned Section 13792.

"Section 13790 R. S. Mo. 1939 provides that the county treasurer 'shall hold his office for a term of four years, and until his successor is elected and qualified, unless sooner removed from office.'

"Article 14 of Section 5 of the Missouri Constitution provides:

> "'In the absence of any contrary provision, **all officers now or hereafter elected** or appointed, subject to the right of resignation, shall hold office during **their official terms**, and until their successors shall be duly elected or appointed and qualified.'

"Section 12820, R. S. Mo. 1939 provides as follows:

> "'All officers elected or appointed by authority under the laws of this state shall hold their offices until their successors are elected or appointed, commissioned and qualified.'

"In 46 C. J. page 968, it is said:

> "'The general trend of decisions in this country is that, in the absence of an express or implied constitutional or statutory provision to the contrary, an officer is entitled to hold his office until his successor is appointed or chosen and has qualified.'

"In State v. Brown, 274 S. W. l. c. 967, the Court says:

> 'The law is well settled that, where a public officer is elected or appointed to hold office for a definite period, and until his successor is appointed or elected and qualified, failure to appoint or elect a successor at the end of such period does not work a vacancy. (Citing cases). It follows that the incumbent properly holds until his successor is elected or appointed and qualified, and it is then only that his term expires. (Citing cases).' See also Langston et al vs Howell County 79 S. W. (2) 99.

"It is my opinion that since there is no provision for an election of a County Treasurer in this county in the year 1942, the present County Treasurer holds over under the

> provisions of the constitutional and statutory provisions, supra, as a de jure officer until his successor is chosen in the general election in the year 1944."

The office of treasurer for the various counties has been created by the General Assembly under the authority found in Section 14, Article IX of the Constitution. The acts creating the office and providing for the election of such officers are found in Article VIII of Chapter 100, R. S. 1939. The sections of the statutes which are pertinent to your questions are Section 13791, R. S. Missouri, 1939, which created the office of treasurer in counties having a population of 75,000 inhabitants and less than 90,000 inhabitants; Section 13790 which provided for the election of a treasurer in counties having a population of less than 40,000 and in counties having a population of 75,000 and not more than 90,000, this section is as follows:

> "On the Tuesday after the first Monday in November, 1938, and every four (4) years thereafter there shall be elected by the qualified voters of the several counties in this state, now or hereafter having a population of less than 40,000 inhabitants and in counties having a population of 75,000 and less than 90,000 inhabitants, according to the last Decennial United States Census, a county treasurer, who shall be commissioned by the county court of his county, and who shall enter upon the discharge of the duties of his office on the first day of January next succeeding his election, and shall hold his office for a term of four (4) years, 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."

And Section 13792, which provides for the election of treasurers in counties having more than 40,000 inhabitants. This section is as follows:

> "On the Tuesday after the first Monday in November, 1940, and every four (4) years thereafter, there shall be elected by the qualified voters in all counties of this state, now of hereafter having a population of 40,000 or more inhabitants according to the last Decennial United States Census (except in counties having 75,000 and not more than 90,000 inhabitants) and in all counties of less than 40,000 inhabitants if under township organization, a county treasurer, who shall be commissioned by the county court of his county, and who shall enter upon the discharge of the duties of his office on the first day of January next succeeding 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: Provided, that in counties having adopted or that shall hereafter adopt township organization, the term of office of said treasurer shall be extended to the first day of April next after the election of his successor; Provided, further, that the present county treasurers shall remain in office until their successors are elected or appointed and qualified, unless sooner removed from office."

Section 5 of Article XIV of the Constitution pertains to the term of Officers, and is as follows:

> "In the absence of any contrary provision, all officers now or hereafter elected or appointed, subject to the

> right of resignation, shall hold office during their official terms, and until their successors shall be duly elected or appointed and qualified."

This section recognizes the right of officers to assign and authorizes the holding over of an officer until his successor is properly chosen and qualifies unless there should be other provision definitely prohibiting or restricting any holding over. And in the section of the statutes the county treasurer is authorized to hold his office until his successor is properly chosen and qualified.

In 1938, in accordance with the provisions of Section 13790, R. S. 1939, there was elected for Greene County a treasurer, who was to serve for four years from the first day of January next succeeding his election and until his successor is elected and qualified, unless sooner removed from office. This would make the term of office of the present treasurer expire December 31, 1942, or when his successor is chosen and qualifies. Since the election of this officer the population of Greene County has increased, according to your letter, so that now the provisions of Section 13792, R. S. 1939, govern the election of a treasurer in Greene County and his term of office. This section directs the election of a treasurer in the year 1940, for a term of four years and until his successor is chosen and qualifies. Your letter states no treasurer was elected in Greene County in the year 1940. No treasurer having been elected at the election in 1940, and the county having a treasurer who was elected for a term of four years and until his successor is elected and qualifies, unless sooner removed, the present treasurer will continue to perform the duties of the office until his successor is elected and qualifies, or until he is removed from office for cause. In the early case of State ex rel. McHenry v. Jenkins, 43 Mo. 261, in discussing the effect of not holding an election the Supreme Court said at l. c. 264-265:

"If the constitution is to be followed, it is clear that 'clerks of all courts of record' holding office under the constitution shall be elected; that the first election shall be in 1866; and that their term shall be four years. The constitution found in existence clerks in every county whose terms under existing law expired at different times. They had all been appointed by the governor under the vacating ordinance; and, had there been no constitutional provision on the subject, elections of their successors would have been held for some in 1866, some in 1868, and some in 1870. The object of this section of the constitution was to establish a uniform rule both for the length of the term and its commencement. That object could not have been secured in plainer language than that used. If the Constitution controls the matter, the term of Mr. Vincent expired in January, 1867, for the plain reason that it could not extend beyond the time when the office must be filled by a new election. It is claimed that the constitution does not interfere to shorten his term, and that he holds under the appointment of the governor for his full four years. This claim cannot be set up except upon the hypothesis that the ordinance is of equal force with the constitution, and that its provisions cannot be changed by that instrument, which will not be seriously pretended. That there might be no possibility of cavil, the draughtsman of that section, knowing that various general and local laws of the State had provided different modes of appointment, length and commencement of terms, added the last clause, 'any existing law of this State to the contrary notwithstanding.' We hold, then, that there should have been an election to fill the office at

the general election of 1866.

"But, as there was no such election, is there a vacancy? Or if not, who is the present clerk? By the terms of the act creating the Kansas City Common Pleas, as well as by the constitutional provision, the clerk shall hold his term until the election and qualification of his successor. Thus there is no vacancy, and Mr. Vincent holds over.

"In relation to relator's second claim, that the omission to hold an election in 1866 can be supplied by one in 1868, we can only say that it is a valid one if the law provides for any such election. But he has failed to show us any such provision, and it would be difficult to give legal validity to a volunteer election. No election can be had unless provided for by law. As the law makes no provision for the election of clerks in 1868, such election is wholly void and of no effect. This position has never been questioned. In The State v. Robinson, 1 Kansas, 17, a question was raised as to the validity of an election for governor, and it was held that the election under consideration was not provided for by law, that the person elected could not take the chair, and that the previous governor should hold over until the next general election. No case has been known where a volunteer election has been held valid, even though the term of the incumbent had expired.

"The writ is refused. The other judges concur."

And in the case of State ex inf. v. Lund, 167 Mo. 228, at l. c. 234:

> "It was held in People v. Tieman, 30 Barb. 193, 8 Abb. Prac. 359, and later by the Supreme Court of the United States in the case of Badger v. United States ex rel. Bolles, 93 U. S. 599, that by the common law, and, in most of the States, when the term of office to which one is elected or appointed expires, his power to perform his duties ceases; that this is the general rule.
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> "In this State, however, if the common-law rule be as stated in Badger v. Bolles, supra, it does not apply with the exceptions as to judicial officers and members of the legislature, and, in the absence of words indicating that the officer is to hold over until his successor is elected or appointed and qualified, 'it is sometimes a matter of doubt whether or not the incumbent can hold over . . . . . Sometimes, however, where words of holding-over import are omitted, it may remain doubtful whether such a right was intended to be conferred. In which case the prevalent rule of construction in this country appears to be that if no restrictive words be used, no terms expressly or impliedly prohibiting holding over, then such continuance in official power and life is permissible and valid, until a successor be chosen,' etc. (State ex rel. v. Perkins, 139 Mo. 106).
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> "The same rule is announced in Dillon on Municipal Corporations (4 Ed.), secs. 219 220; Tiedeman on Munic. Corp., sec. 81; Mechem on Public offices and officers,

sec. 397; and in Throop on Public Officers, secs. 323, 325."

The above case was one involving the title to the office of comptroller of Kansas City. After stating the foregoing rule, the court held certain language in the City Charter to be restrictive and that respondent was not entitled to the office because of such restriction.

And in the case of State ex inf. v. Smith, 152 Mo. 512, where the Supreme Court said at l. c. 517:

> "The appointment of defendant by the judges named was expressly predicated upon the theory that a failure to elect a successor to Haughton at the regular election in 1898, ipso facto, created a vacancy in that office. This is a misapprehension of the law in this State. Whatever may be the rule in other States, under their constitutions, and statutes, it has been the settled law in this State ever since the decision in State v. Lusk, 18 Mo. 333, that the failure to elect a successor to an office at the regular time for holding an election for that office, does not create a vacancy in such office, and does not, therefore, authorize any one to appoint a successor, and that if a person is so appointed as such successor he acquires no title. (State ex rel. v. Ranson, 73 Mo. l. c. 91, 94 and 95: State ex rel. v. McCann, 81 Mo. 479; State ex rel. v. Manning, 84 Mo. l. c. 663; State ex rel. v. Smith, 87 Mo. l. c. 160; State ex rel. v. McCann, 88 Mo. l. c. 390; State ex rel. v. McGovney, 92 Mo. l. c. 430; State ex rel. v. Powles, 136 Mo. l. c. 381.)"

Also in State ex inf. Hulen v. Brown, 274 S. W. 965, l. c. 967:

"The law is well settled that, where a public officer is elected or appointed to hold office for a definite period, and until his successor is appointed or elected and qualified, failure to appoint or elect a successor at the end of such period does not work a vacancy. State ex rel. Lusk, 18 Mo. 333; State ex rel. Stevenson, v. Smith, 87 Mo. 158. It follows that the incumbent properly holds until his successor is elected or appointed and qualified, and it is then only that his term expires. State ex rel. Robinson v. Thompson, 38 Mo. 192; State ex rel. v. Ranson, 73 Mo. 78.

"The law under which appellants were appointed fixed their terms of office at one year, and comtemplated that at the end of that time new appointments would be made. But, since the appointing power might not be promptly exercised, to prevent a vacancy the law provided for the incumbents to hold over until their successors were appointed and qualified. This is a wise rule as applied to public officers, for thereby the public is protected from possible evils naturally attendant upon a situation wherein neglect and waste might result. This contingency, as contemplated by the law, enters into every such appointment, and it must be concluded that the time an incumbent holds over the designated period is as much a part of his term of office as that which precedes the date when the new appointment should be made. The authorities are uniform on this rule, and we think there can be no question about it."

In the early case of State ex rel. Attorney General v. Seay, 64 Mo. 89, a case involving the office of circuit judge, the Court recognizes the right of an incumbent to hold office until a successor is elected and properly qualified, uses the following language at l. c. 100 and following:

> "In the case at bar there was an election. The successful candidate, McCord, received his commission and took the oath of office. The limit of Gale's term of office fixed by the constitution was six years from the first Monday in January, 1869, if a successor should be duly elected and qualified. His successor was duly elected and qualified. There was no one elected by the General Assembly to succeed Lusk, and this makes a material and vital difference between the two cases, and without overruling that, we may, in this case, determine that there was a vacancy created by the death of McCord.
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> "The case of the Commonwealth vs. Hanley (9 Barr, 513) is in many of its features similar to this, and is confidently relied upon by relator. Hanley was elected clerk of the orphan's court on the second Tuesday in October, 1845, for three years from the first day of December, 1845, 'and until a successor should be duly qualified.' He qualified and entered upon the discharge of the duties of the office. On the second Tuesday in October, 1848, one Brooks was elected to succeed Hanley, but died on the 7th day of November following, within thirty days from the day of election, and by the law of that State he could not have qualified to fill the office by taking the necessary oath, or by giving bond within thirty days from the day of election.

"The opinion of the court was delivered by Rogers, J., and we quote from that opinion so much as we think bears upon the questions discussed in this case. 'Was there a successor duly qualified within the spirit of the Constitution? is the point on which the question mainly if not entirely depends. Being duly qualified in the constitutional sense, and in the ordinary acceptation of the words, unquestionably means that the successor shall possess every qualification; that he shall in all respects comply with every requisite, before entering on the duties of the office; that in addition to being elected by the qualified electors he shall be commissioned by the governor, give bond as required by law, and that he shall be bound by oath or affirmation to support the constitution of the commonwealth, and to perform the duties of the office with fidelity. Until all these pre-requisites are complied with by his successor (for if you can dispense with one you can dispense with all) the respondent is de jure as well as defacto the clerk of the orphan's court.'

"The words are emphatic and full of meaning. The successor must not only be qualified, but duly qualified; and qualification for office, as defined by the most approved lexicographer, is 'endowment, or accomplishment that fits for an office; having the legal requisites, endowed with qualities fit or suitable for the purpose.'

"If McCord had died after his election and before he received his commission and qualified, Commonwealth v. Hanley would be an authority direct to the point that his death created no vacancy, and we infer from the opinion of the court, that if in that case Brooks had duly qualified and

died before the commencement of the term for which he was elected, the court would have held that his death created a vacancy. Here it is admitted that McCord was duly elected and commissioned, took and subscribed the prescribed oath, was thirty years of age, learned in the law, and resident in the ninth judicial circuit, and was therefore, at his death 'duly qualified,' as those words are expounded by the learned judge in Commonwealth vs. Hanley.

"By the law of Pennsylvania, Brooks was not permitted to give his official bond or take the oath of office within thirty days after his election, but by Section 2, Art. 1, ch. 4, Wagn. Stat., it is provided that 'each judge or justice shall, within thirty days after the receipt of his commission, and before entering upon the duties of his office, take the oath of loyalty prescribed by the Constitution of the State, and that he will faithfully demean himself in office.' So that taking of the oath of office by McCord was not premature, but was taken in compliance with the law.

"There is such a conflict between the California cases which have been cited, that they are of but little authority on either side of the question. The earlier cases sustain defendant's view. They are, however, overruled, in two cases more recently decided, but by a divided court, the dissenting judges adhering to the doctrine of the former cases.

"We have been referred to cases in New York and elsewhere, in which are observations to the effect that an office cannot be considered vacant while there is an incumbent legally in office, and discharging

> the duties of the office, but this we do not controvert, and it only brings us back to the question, was there an incumbent of the office of judge of the ninth judicial circuit when the governor issued his writ of election? If there was, there was no vacancy, and those cases would be in point; but the very question we are discussing is, whether there was then an incumbent, and this turns on the meaning of the word qualified, as used in our constitution of 1865."

Here a successor had been elected and qualified, but died before the beginning of his term, and recognizing the rule above set out, held that the election and qualification were sufficient to terminate the tenure of the incumbent and create a vacancy.

Section 5 of Article XIV of out present Constitution is the same as Section 8 of Article XI of the Constitution of 1865, which was in force at the time the Seay case was decided.

And again, in the case of State ex inf. Attorney General v. Dabbs, 182 Mo. 359, a case involving the office of circuit judge in Jasper County, under a statute which gave to Jasper County an additional circuit judge, and wherein the election was not held at the proper time to elect a successor to the incumbent, the court used the following language at l. c. 369:

> "The act of March 25, 1901, provides that the appointee shall continue in office until his successor is elected and qualified. This has not been done, and the time intervening between the first Monday of January, 1903, and the election and qualification of his successor is as much a part of the term for which he was appointed as the period next pre-

> ceding the first Monday of January, 1903.
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> "As a successor to defendant can not now be elected and qualified until after the general election in 1908, he is entitled to hold the office and to discharge its duties until that time.
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> "If follows from what has been said that the demurrer to the return to the writ should be overruled, the writ of ouster denied, and the proceeding dismissed."

Section 8 of Article XIV of the Constitution, relating to the compensation and term of officers, is as follows:

> "The compensation or fees of no State, county or municipal officer shall be increased during his term of office; nor shall the term of any office be extended for a longer period than that for which such officer was elected or appointed."

In the case of State ex rel. The Attorney General v. Ransom, 73 Mo. 78, this section was discussed at length, and the court said at l. c. 89 and following:

> "His second objection involves the construction of the 8th section of the 14th article of the constitution, and the 2807th section of the Revised Statutes of 1879. This is a case of first impression in this court. The spirit and intent of the convention, in framing section 8, of article 14 of the constitution, as we apprehend, was to prevent the too frequent practice that

had obtained, of passing special laws to increase the compensation or fees of particular officers, or to extend the term of special offices by like special legislation, for the benefit of present incumbents. This, we think, was the object and purpose of this section of the constitution. We cannot suppose that the convention intended thereby to cripple and embarrass the legislature in the exercise of a sound and wise discretion in making such reasonable changes in the times of electing public officers, as the public interest and convenience might require. Such changes were not within the mischief contemplated by the convention, although they might incidentally result, in some instances, in prolonging the time a given officer might have under his commission. The object and intent of the legislature in framing section 2807, Revised Statutes, was to provide and fix a certain and uniform time at which the election of justices of the peace should take place. It was not their purpose thereby to extend the term of said offices within the meaning of this constitutional prohibition, but simply to supply an omission that had long existed in our statute, prior to this enactment, and remedy as far as possible the inconvenience and want of uniformity resulting therefrom; and, if in the exercise of a sound and proper discretion on the part of the legislature, in thus fixing a definite time for the election of justices of the peace, it should incidently result, that some of the justices should thereby continue in office longer than they would have done in the absence of this enactment, we are not prepared to say that the legislature thereby exceeded its authority, or violated the spirit or intent of the constitution in this particular.

"The convention that framed the constitution thought proper, in order: 'That no inconvenience might arise from the alterations and amendments of the constitution of the State,' to ordain and declare that all persons then filling any office or appointment in the State, should continue in the exercise of the duties thereof, according to their respective commissions and appointments, unless otherwise provided by law. See schedule and section 6 of the schedule to the constitution of the State. By the latter clause of section 2807 of the statute, the legislature at its revising session in 1879, prompted by a like consideration, intended, we think, to obviate any like inconvenience that might result from the alteration of the old law as to the time of electing justices of the peace. The spirit and intent of the convention in framing this ordinance and that of the legislature in passing this section of the statute, are so near alike that it has occurred to us that they ought to receive the same liberal consideration and construction.'

"Section 37, of article 6 of the constitution, provides that: 'In each county there shall be elected or appointed as many justices of the peace as the public good may require, whose powers, duties and duration in office shall be regulated by law.' In the exercise of that power and duty, the legislature, in the revision of 1879, first determined how many justices the public good required in municipal townships, and then proceeded, by the first clause of section 2807, to effect a much needed reform, that had long been felt, in the statute law of the State, by fixing a definite time at which all justices of the peace should be elected; and to this section is appended the latter clause which provides that: 'Every justice of the peace

now in office shall continue to act as such until the expiration of his commission, and until his successor is elected and qualified.' This latter clause, it is claimed, acts as an extension of the term of certain justices whose terms would otherwise have expired at the recent November election in 1880, and is, therefore, claimed to be in violation of section 8, of article 14 of the constitution above mentioned.

"The first question is, what constitutes, under the law, the official term of justices of the peace? The statute in force now and when respondent was elected and qualified, provides that: 'Justices of the peace are to be commissioned by the county court, and shall hold their office for four years, and until their successors are elected and qualified.' The constitution of the State--5th section, 14th article --declares that: 'In the absence of any contrary provision, all officers now or hereafter elected or appointed, shall hold office during their official terms, and until their successors shall be duly elected or appointed and qualified.' The stipulation of the parties shows that at the November election in 1876, the respondent was duly elected, commissioned and qualified as a justice of the peace within and for Kaw township, in Jackson county, Missouri, for the period of four years, and until his successor was duly elected or appointed and qualified. It would seem from this that the period of four years, and whatever time thereafter may elapse before the election or appointment and qualification of his successor, constitutes the official term of justices of the peace; that the time intervening between the end of the four years and the election or appointment and qualification of his successor, is as much a part of his term of office, as the four years that pre-

> ceded it. Such, we think, is the meaning and import of this term. In the case of the State v. Lusk, 18 Mo. 337, this court, in treating of an act of the legislature creating the office of public printer, and in commenting on the 5th section of that act, which provides that: 'The public printer to be elected at each session of the general assembly, shall hold his office for two years * * and until his successor shall be elected and qualified,' uses this language: 'While it may be true that the design of continuing an incumbent in office until his successor is duly elected and qualified, is to prevent an interregnum in the office, and to have some person always authorized to discharge its duties, it is also true that the incumbent, until the qualification of his successor, is as fully in the office and entitled to all its advantages and emoluments, as he was for the previous period of his service, and it is his right to hold the office until everything has been done which is required by law to give title to the office to another person.' Commonwealth vs. Hanley, 9 Barr (Pa.) 513; State v. Robinson, 1 Kas. 17; State v. Berg, 50 Ind. 496; Thompson v. State, 37 Miss. 518; Placer Co. v. Dickerson, 45 Cal. 12; State v. Daniel, 6 Jones (N. C.) 444; Sparks v. Bank, 9 Am. Law Reg. (N. S.) 365. In the case of Harris v. Babbit, 4 Dill. C. C. 190, and some of the cases there cited, a somewhat different doctrine is held."

The law is well settled in this State that failure to elect does not create a vacancy, and that absent restrictions, the incumbent continues to hold the office as a part of his term until his successor is chosen at the proper time and in

the proper manner and qualified.

Your letter states that, by the last decennial census Greene County had a population of over 90,000 inhabitants. The last census having been taken in 1940, the question might be raised as to when this increase became effective for the purpose of determining when a treasurer should be elected in Greene County.

Sections 13790 and 13792, supra, each contain the words "according to the last Decennial Census of the United States," when referring to the population of the county for the purpose of fixing the time for electing a county treasurer. This could only mean the "last Decennial United States Census" before the time when the election is to be held. In 1938, Greene County had a population of less than 90,000 inhabitants by the census of 1930; in 1942, Greene County, by the census of 1940, will have a population in excess of 90,000. Townships may pass from one class to another by a change in population, when there is classification according to population and grow into a law or out of it.

In the case of State ex rel. Wallace et al. v. Summers, et al., 9 S. W. (2d) 867, the Court said, l. c. 868:

> "As we read the Ryan Case we conclude that to construe the statute as holding within its terms only municipal townships, as of the time of the passage of the act, would render the act unconstitutional. Therefore we hold under this authority that a municipal township grows out of a law by reason of decrease in population as well as growing into a law by reason of increase in population. State ex rel. v. Ryan, supra; State ex rel. v. Williams, 310 Mo. 267, 275 S. W. 534; State ex rel. v. Turner, 210 Mo. 77, 107 S. W. 1064. * * * * * * * * * * *."

The same rule should be applicable to counties.

Greene County, by the increase in population, has passed into a different classification from what it was in 1938, when the present treasurer was elected. There is no law authorizing the election of a county treasurer in the year 1942, in a county having a population of over 90,000 inhabitants.

CONCLUSION.

From the foregoing, it is the conclusion of this Department that the present treasurer of Greene County should serve until his successor is elected in the year 1944 and properly qualified.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General

WOJ/rv