

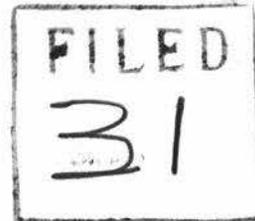
Governor to appoint eligible person to fill vacancy in office of coroner in fourth class county. Such officer to hold office for the remainder of the term.

CORONER: The next election for county coroner will be at the general election in 1952.

April 6, 1950

Filed: #31

Honorable Edwin Frieze
Prosecuting Attorney
Dade County,
Greenfield, Missouri



Dear Sir:

This is in reply to your request for an opinion from this department, which request reads as follows:

"Here in this County at last general election Dr. Cain was elected coroner of this county. Some time near first of this year Cain resigned and moved away. Shortly thereafter the Governor appointed his successor. Kindly let me know if a coroner is to be elected at our fall election?"

The power to fill vacancies occurring in public office is conferred upon the governor by Article IV, Section 4 of the State Constitution, which reads as follows:

"Sec. 4. The governor shall fill all vancancies in public offices unless otherwise provided by law, and his appointees shall serve until their successors are duly elected or appointed and qualified."

Your attention is also directed to L. 1945, p. 1404, Sections 2 and 4, which read as follows:

"Sec. 2. At the general election in the year 1948, and every four years thereafter, the qualified electors of the county at large in each county in this state shall elect a coroner who shall be commissioned by the Governor, and who shall hold his office for a term of four years and until his successor is duly elected or appointed and qualified. Each coroner shall enter upon the duties of his office on the first day of January next after his election: Provided, that the term of office of persons holding the office of coroner at the time this act shall take effect shall not be vacated or affected thereby."

"Sec. 4. When any vacancy shall occur in the office of coroner by death, resignation, removal, refusal to act, or in any other manner, it shall be the duty of the Governor to fill such vacancy by appointing some eligible person to such office. The person so appointed shall take the oath, give bond and otherwise qualify for the office as required of coroners regularly elected, and shall discharge the duties of such office for the remainder of the term for which he is appointed."

The term of office of a county coroner is fixed by L. 1945, p. 1404, Sec. 2, quoted above, as four years and provides for election of a coroner in the general election in 1948, and every four years thereafter. L. 1945, p. 1404, Sec. 4 provides for the appointment by the Governor of some eligible person if a vacancy should occur in this office by resignation as has occurred in your county, and provides further such officer so appointed "shall discharge the duties of such office for the remainder of the term for which he is appointed." The coroner appointed by the Governor to fill the unexpired term may hold office until the general election in 1952. The statute seems unambiguous and clear that the appointment to fill the unexpired term shall be for the remainder of the term which will not end until December 31, 1952.

CONCLUSION.

Upon the resignation of a duly elected county coroner, the Governor shall appoint some eligible person to fill the vacancy. The coroner so appointed shall hold office for the remainder of the term for which he is appointed. Since the county coroner was elected in the general election in 1948 and the term of office does not expire until December 31, 1952, the person appointed to fill the vacancy may hold office until December 31, 1952.

Respectfully submitted,

JOHN E. MILLS,
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
Attorney-General