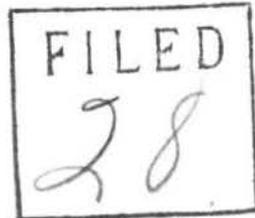


PUBLIC OFFICERS:
JUSTICES OF THE PEACE:
NEW CONSTITUTION:

Justices of the Peace elected prior to effective date of the New Constitution will continue to serve out their terms.

March 8, 1945



Honorable Roth H. Faubion
Prosecuting Attorney of
Barton County
Lamar, Missouri

Dear Sir:

This will acknowledge receipt of your letter of March 6, relative to the following question:

"Barton County does not have a population of fifteen thousand, it also has township organization. The question is, that there will be township elections on the fourth Tuesday of March, which will be a day or so before parts of the Constitution goes into effect. Under the old law Justices of the Peace would be elected on that date. The New Code does away with such officers. Under the Statutes now existing Sect. 13950 R.S. Mo., 1939, the township clerk shall transmit a list of the township officers elected within five days after such election. Sec. 13951 states that the township clerk, shall within ten days after the township election transmit to any person elected, a notice of his election. Of course there are various statutes to the effect that the County Court shall commission a Justice when their election is ascertained. What I wish to know is whether or not Justices of the Peace can be elected and qualified in the township elections on the last Tuesday in March, in Counties of this size, under township organization? It seems that the text of the Constitution and sections three and four of the 'Schedule' at the end of the Constitution are rather ambiguous."

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Section 3 of Article XV of the Missouri Constitution of 1875, provides that the New Constitution shall go into force and effect at the end of thirty days after the election approving the same.

The Special Election at which the New Constitution was approved, was held on February 27, 1945, and same will become effective under the foregoing constitutional provision on March 30, 1945.

Sections 3 and 4 of the Schedule of the New Constitution provides:

"The terms of all persons holding public office to which they have been elected or appointed at the time this Constitution shall take effect shall not be vacated or otherwise affected thereby."

"All courts of common pleas now existing, the St. Louis courts of criminal correction, and all circuit court circuits as now established, shall continue until changed or abolished by law. The justices of the peace shall continue to hold their offices and receive the emoluments thereof until their terms of office expire, upon which their records shall be transferred to the magistrate courts."

Justices of the Peace at the township elections in question, on March 27, 1945, will be elected prior to the effective date of the New Constitution, and will, therefore, hold their offices until the expiration of the terms to which they were elected, in accordance with the provisions of Sections 3 and 4 of the Schedule of the New Constitution.

CONCLUSION.

It is, therefore, the opinion of this Department that Justices of the Peace elected at the township elections

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to be held on March 27, 1945, in counties under township organization, the date of which elections is prior to the effective date of the New Constitution, shall continue to hold their offices and receive the emoluments thereof until their terms of office expire, under the provisions of Sections 3 and 4 of the Schedule of the New Constitution.

Respectfully submitted,

R. WILSON BARROW
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
Attorney-General

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