

Answer by letter-Gardner

March 28, 1969

OPINION LETTER NO. 126



Honorable R. Jaynes
Prosecuting Attorney
Howard County
Courthouse
Fayette, Missouri 65248

Dear Mr. Jaynes:

This is in response to your request for an official opinion on the following question:

"After a person is elected at a special election (28 February, 1969) to fill the office of sheriff under Section 57.080, RSMo 1959, when is the next election to be held for sheriff: is it at the next general election (which would be in 1970), or is it at the general election which comes in a year as set forth in Section 57.010, RSMo 1959(which would be in 1972)?"

Elections cannot be held except as authorized by law. State v. Tellatson, 304 S.W.2d 485, 487. The only statutes authorizing elections to fill the office of sheriff are Sections 57.080 and 57.010, RSMo. In Section 57.080 the legislature has authorized a special election to fill a vacancy in the office "if such vacancy happens more than nine months prior to holding a general election." In Section 57.010 the legislature has prescribed the general election at which the office is to be filled when the incumbent's term expires. The first sentence of Section 57.010 is as follows:

"At the general election to be held in 1948, and at each general election held every four years thereafter, the qualified voters in every county in this state shall elect some suitable person sheriff.* * *"

Honorable R. Jaynes

It appears therefore that in Section 57.080 the legislature has provided for the filling of vacancies in the office of sheriff in these circumstances until a general election is held pursuant to Section 57.010. Accordingly, the person elected sheriff at a special election held pursuant to Section 57.080 on February 28, 1969, holds office for the remainder of the unexpired term, that is until the regular general election prescribed by Section 57.010 is held in 1972.

Yours very truly,

JOHN C. DANFORTH
Attorney General