

OPINION 55

State *ex rel.* Clemens v. Kern (1939), 215 Ind. 515,
20 N. E. (2d) 514, 21 N. E. (2d) 141;

and similarly keeping in mind that the primary purpose of interpreting all statutes is to effectuate the apparent legislative intent, it is clear that an employee under the fact situations outlined in your letter is not required to become a member of the Public Employees' Retirement Fund and may continue the employment which began December 1, 1950 permanently without being required to become a member of the Public Employees' Retirement Fund.

OFFICIAL OPINION NO. 55

August 11, 1952.

Mr. Edwin Steers, Sr., Member,
State Election Board,
108 East Washington Bldg.,
Indianapolis, Indiana.

Dear Sir:

I have your request for an Official Opinion in which you ask whether or not the office of Sheriff should be placed on the ballot for the General Election of this year if the present incumbent should resign this month.

As you know, Article 6, Section 11, of the Indiana Constitution was amended in 1948 to read as follows:

"Notwithstanding any other provision hereof, the sheriff of each county shall be elected in the general election held in the year 1950 and each four years thereafter. The term of office of each such sheriff shall be four years beginning upon the first day of January next following his election and no person shall be eligible to such office more than eight years in any period of twelve years: Provided, however, that any elected sheriff who shall hold said office on December 31, 1950, and who shall have been elected to said office for a period of less than two consecutive years imme-

diately preceding, shall continue in said office for the four year term commencing January 1, 1951."

This amendment was construed in the case of Kirkpatrick v. King, *et al.* (1950), 228 Ind. 236, 243, 91 N. E. (2d) 785. In that decision the Supreme Court of Indiana said concerning the intent of this amendment:

"It is conceded by the parties to this appeal that before the adoption of the amendment, in at least eleven counties the sheriffs, who were elected in the general election in 1948, did not begin their terms until January 1, 1950. The official Roster of State and Local Officials State of Indiana for 1948 discloses that in fourteen counties sheriffs did not begin their terms until January 1, 1950, and in Jefferson County the sheriff began a new term on November 15, 1948. We must presume that the General Assembly, and the voters who ratified the amendment, were aware of this situation, *and it was their expressed intention not only to change the term of the office of sheriff from two years to four years, but also to establish a definite uniform cycle for the beginning and ending of all such terms throughout the state.*" (Our emphasis.)

In line with this statement it was important to note the wording of Section 11 of Article 6 of the Constitution as amended in which it says that a sheriff shall be elected in the year 1950 "and each four years thereafter."

From the foregoing authorities, it is my opinion that should a sheriff resign this month, a person appointed to the office of sheriff would hold until January 1, 1955, and that there would be no election for the office of sheriff in the year of 1952.