

Deputy State Officers, Term of Office Of.

Under Section 993, Political Code, the term of office of a deputy, where not otherwise fixed by law, is subject to the pleasure of his principal and cannot under any circumstances extend beyond the term of such principal. Under the Constitution, Section 1 of Article VII, the terms of the outgoing state officers expired on Sunday the first day of January; and, consequently the term of all of their deputies expire at the same time. Such deputies would, therefore, not be entitled to pay, notwithstanding they appeared on the second day of January and assisted in turning over the various departments to their successors.

February 18, 1905.

Hon. Harry R. Cunningham, State Auditor, Helena, Montana:

Dear Sir:—Your letter of the 16th instant duly received, in which you request the opinion of this office as to whether outgoing appointive officers who were succeeded in their respective places January 2 are entitled to pay for two days in the month of January or for one.

Section 1 of Article VII of the Constitution fixes the term of all state officers at four years or until their successors are elected and qualified, beginning on the first Monday of January next succeeding their election.

Section 993, Political Code, declares that "every office of which the duration is not fixed by law is held at the pleasure of the appointing power."

The deputies of state officers are, of course, appointed by those officers and hold during their pleasure. The constitution having provided that the newly elected state officers take their offices on the first Monday of January, the term of office of the outgoing state officers necessarily terminates on Sunday the first day of January, 1905. The terms of the deputies of these officers could not by any possibility extend beyond the terms of the principals by whom they were appointed; and, therefore, expire at the same time as the terms of such principals—that is, on the first day of January, 1905.

The fact that such deputies appear on the first Monday of January and assist in turning over the various departments to their successors could make no difference, because such deputies could not be required

to do so and their action in this regard must be considered as an act of courtesy on their part and not a part of their official duties for which they would be entitled to pay.

Respectfully yours,

ALBERT J. GALEN,

Attorney General.