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1. JUSTICES OF PEACE—TERMS BEGINNING ON OR AFTER JANUARY 1, 1956 — NOT BEING DESIGNATED BY STATUTE ARE FOR TWO YEARS — MINIMUM TERM PERMITTED — ARTICLE XVII, SECTION 2, CONSTITUTION OF OHIO.
2. JUSTICE OF PEACE—TOWNSHIP OFFICE—ELECTIONS MAY BE HELD ONLY “IN NOVEMBER IN THE ODD NUMBERED YEARS—”—ARTICLE XVII, SECTION 1, CONSTITUTION OF OHIO.

## SYLLABUS:

1. The terms of justices of the peace beginning on or after January 1, 1956, not being designated by statute, are for two years, the minimum term permitted under the provisions of Section 2, Article XVII, Ohio Constitution.
2. The office of justice of the peace being a township office, elections therefor may be held only "in November in the odd numbered years" as provided in Section 1, Article XVII, Ohio Constitution.

Columbus, Ohio, March 13, 1956

Hon. Ted W. Brown, Secretary of State  
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"A Board of Elections has had filed with it a Resolution adopted by the Commission on Justice Courts, establishing for the county one Justice Court District including all the territory within the county. The Resolution further requires an election for a Justice of the Peace for the said newly created district, to be held on Tuesday, November 6, 1956.

"Article XVII, Section 1, provides that elections for state and county officers shall be held on the first Tuesday after the first Monday in November in even-numbered years; and all elections for all other elective officers shall be held on the first Tuesday after the first Monday in the odd-numbered years.

"We respectfully request your Opinion on the question of the authority of the Commission on Justice Courts to set an election for the office of Justice of the Peace in an even-numbered year in view of the above Constitutional provision. If it is your opinion that an election may be held in the even-numbered years for the office of Justice of the Peace, will such Justice be elected for the full term for the office, or will he be elected only for an unexpired term to end after the next odd-numbered year election?

"Since the statutes do not specify the term of Justices of the Peace, may we assume that the maximum number of years for a township officer as set forth in Article XVII, Section 17, of the Constitution would apply to this office?

"Has the Legislature by the amendments to the statutes set forth in Senate Bill No. 319 made the office of Justice of the Peace a 'county office' where the Commission makes the jurisdiction of the Justice District coextensive with the boundaries of the county?"

In my Opinion No. 6122, it was held, as disclosed by the syllabus:

“The provisions of Amended Senate Bill No. 319, 101st General Assembly, do not have the effect of abolishing the office of justice of the peace, such office being continued in existence as a township office within the meaning of Section 3929.17, Revised Code, under the provisions of which section the premium on the bond of the officer concerned must be paid by the township in which he is elected and where he resides.”

Having concluded in that opinion that the office of justice of the peace is still essentially a “township office” it necessarily followed, and I so held in my Opinion No. 6256, addressed to the Hon. Glenn L. Fortune, Prosecuting Attorney of Carroll County, on February 15, 1956, that:

“Under the provisions of Article XVII, Section 1, Ohio Constitution, elections for the office of justice of the peace cannot be set, under the provisions of Section 1907.02, Revised Code, prior to the November election in 1957.”

As to the term of justices of the peace, we find the following provision in Section 2, Article XVII, Ohio Constitution:

“\* \* \* The term of office of the Justices of the Peace shall be such even number of years not exceeding four (4) years, as may be prescribed by the General Assembly. \* \* \*”

As you have indicated the present statute, following the amendment of Section 1007.04, Revised Code, fails to make any provision whatever as to the terms of these officers. In this situation it would appear that the courts will probably apply the rule established in *State ex rel. Birrell v. Speak*, 124 Ohio St., 636, the syllabus in which reads:

“At its session in 1931, the General Assembly passed similar acts creating municipal courts for the cities of Niles and Warren. These acts contained provisions for the exercise of various judicial functions pertaining to the office, provided the time for the first election of the judges thereto and when their terms should begin, but failed to fix any time for their term of office or its duration. *Held*: While such municipal acts are constitutionally valid, so far as they relate to the creation of the office, the time of the first election of the judges thereto and the time of beginning their respective terms, since no term or tenure of the office was fixed by the Legislature as required by Section 2, Article XVII of the Constitution, such legislative acts will be so construed as to give the elected incumbent judges the shortest time permitted by the constitution, namely two years from the first day of January, 1932.”

Applying a similar rule in the instant case it follows that on and after January 1, 1956, the effective date of the amendment above referred to, the term of office of justices of the peace is the minimum term permitted under Section 2, Article XVII, which is two years.

Accordingly, in specific answer to your inquiry, it is my opinion that:

1. The terms of justices of the peace beginning on or after January 1, 1956, not being designated by statute, are for two years, the minimum term permitted under the provisions of Section 2, Article XVII, Ohio Constitution.

2. The office of justice of the peace being a township office, elections therefor may be held only "in November in the odd numbered years" as provided in Section 1, Article XVII, Ohio Constitution.

Respectfully,

C. WILLIAM O'NEILL

Attorney General