



**THE ATTORNEY GENERAL  
OF TEXAS**

**CRAWFORD C. MARTIN  
ATTORNEY GENERAL**

**AUSTIN, TEXAS 78711**

January 29, 1970

Honorable Franklin L. Smith  
County Attorney  
Nueces County Courthouse  
Corpus Christi, Texas 78401

Opinion No. M-566

Re: Expiration of term of  
present Judge of County  
Court at Law No. 2 of  
Nueces County and whether  
such office should appear  
on the General Election  
ballot of 1970.

Dear Mr. Smith:

You have requested an opinion of this office as to the expiration date of the current term of the Judge of County Court at Law No. 2 of Nueces County and whether such office should appear on the General Election ballot of 1970.

The provisions governing the election of the Judge of the County Court at Law No. 2 of Nueces County are set out in Section 6 of Article 1970-339A, Vernon's Civil Statutes, and read, in part, as follows:

" . . . The Judge of the County Court at Law No. II of Nueces County shall hold his office for a term of four years, and until his successor shall have been duly elected and qualified. As soon as practicable after the effective date of this Act, the commissioners court of Nueces County shall appoint a suitable person to be Judge of the County Court at Law No. II, who shall take office on July 1, 1967 and shall hold office until December 31, 1968 and until his successor has been duly elected and qualified. His successor shall be elected in the general election to be held in 1968, for the term of four years, and a like election shall be held every four years thereafter." (Emphasis added.)

Section 65 of Article XVI of the Constitution of Texas governs the terms of offices for the offices listed therein and reads, in part, as follows:

"The following officers elected at the General Election in November, 1954, and thereafter, shall serve for the full terms provided in this Constitution:

" . . . (d) Judges of County Court at Law

Section 30 of Article V of the Constitution of Texas fixes the length of the full term of office for the judge of the County Court at Law at four years in the following language:

"Sec. 30. The Judges of all Courts of county-wide jurisdiction heretofore or hereafter created by the Legislature of this State, . . . shall be elected for a term of four years, and shall serve until their successors have qualified."

Upon the authority of the foregoing constitutional provisions, the office of County Court at Law is to be filled for a term of four years at the General Election in November of the years 1954, 1958, 1962, 1966, 1970, 1974, etc. Attorney General's Opinions WW-1292 (1962), C-147 (1963) and C-235 (1964).

Since the term of office of the judge of the County Court at Law is fixed by the Constitution, so much of the above quoted and underlined provision in Section 6 of Article 1970-339A calling for election to the first full term in November, 1968, was therefore unconstitutional. The invalidity in this section at the time of the 1968 General Election, however, did not invalidate other provisions of the act, and therefore the election for the office of Judge of the County Court at Law No. 2 of Nueces County held in November, 1968, was for the unexpired term of two years ending on December 31, 1970. Eades v. Drake, 160 Tex. 381, 332 S.W.2d 553 (1960); Sterrett v. Morgan, 294 S.W.2d 201 (C.A. 1956, no writ). Accordingly, the office of Judge of the County Court at Law No. 2 of Nueces County is subject to being filled at the General Election in November, 1970, for a term of four years beginning January 1, 1971.

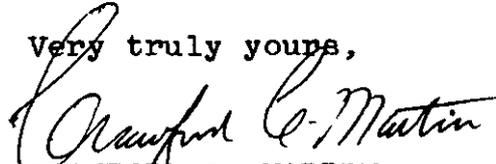
#### S U M M A R Y

Section 65 of Article XVI of the Constitution of Texas fixes the dates for elections for full terms of judges of County Courts at Law as the years 1954, 1958, 1962, 1966, 1970, and every four years thereafter; the provision in Article

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1870-339A fixing the full term of four years to run from the General Election of 1968 was unconstitutional, being in violation of Article V, Section 30 and Article XVI, Section 65, Constitution of Texas.

Very truly yours,

  
CRAWFORD C. MARTIN  
Attorney General of Texas

Prepared by William J. Craig  
Assistant Attorney General

APPROVED:  
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