



WILLIAM J. SCOTT

ATTORNEY GENERAL
STATE OF ILLINOIS
500 SOUTH SECOND STREET
SPRINGFIELD

September 6, 1973

No. S-624

**CONSTITUTION:
County Treasurer
Successive Terms**

Honorable A. Randolph Comba
State's Attorney
Bureau County
Room 200 - Court House
Princeton, Illinois 61356

Dear Mr. Comba:

I have your letter wherein you state:

"I am requesting an official opinion for the below information:

Sometime prior in an Attorney General's Opinion, it was your decision that under the new constitution, a Sheriff, who is presently in office, can succeed himself.

Although I think that this would be applicable to Treasurers also, I would like an opinion from you as to whether or not a Treasurer, serving a present term, can succeed himself."

Section 8 of article X of the 1870 Illinois Constitution stated, in part, as follows:

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"* * * Provided that no person having once been elected to the office of sheriff or treasurer shall be eligible to re-election to said office for four years after the expiration of the term for which he shall have been elected."

As you know, the foregoing provision is not in the 1970 Illinois Constitution. It has been held that the adoption of a new constitution repeals and supersedes all the provisions of the older constitution not continued in force by the new instrument. (Ex parte Palm, 255 Mich. 632; Dawson v. Tobin, 74 N.D. 713). Furthermore, an Illinois decision holds that where language which appears in an old article of the Constitution does not appear in a new amended article, the new provisions provide a substitute for the old provision, operate exclusively in its place, and reenact or continue in force only that which is reenacted and repeal that which is omitted. People v. Hemphill, 96 Ill. App. 2d 407.

From the foregoing it is apparent that under the new 1970 Illinois Constitution a treasurer may succeed himself. The only remaining question is whether a person who was elected treasurer while the 1870 Illinois Constitution was in effect could succeed himself inasmuch as the 1970 Constitution replaced

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the old one. The fact that he was elected while the old constitution was in effect, would not, in my opinion, preclude him from succeeding himself now. The 1970 Constitution, as mentioned, does not prevent anyone from succeeding himself. Had the people in adopting the new constitution wanted to prevent the present treasurers from succeeding themselves they could have so provided. In the absence of such a provision, all persons should be treated alike.

In conclusion, I am of the opinion that a treasurer who was elected when the 1870 Illinois Constitution was in effect may now succeed himself since there is no statute preventing him from doing so and the present 1970 Illinois Constitution contains no such prohibition.

Very truly yours,

A T T O R N E Y G E N E R A L