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SPRINGFIELD

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FILE NO. S-1397
OFFICERS:
Appointment of Deputy Clerks
of the Circuit Court

Honorable Gene L. Armentrout
State's Attorney
Kane County
404 Kane County Courthouse
Geneva, Illinois 60134

Dear Mr. Armentrout:

I have your letter wherein you inquire whether an incumbent clerk of the circuit court must reappoint his deputies at the beginning of his new term. For the reasons hereinafter stated, it is my opinion that a clerk of the circuit court must, if he wishes to retain their services, reappoint his deputies at the commencement of each new term, and that those deputies must, upon reappointment, take the same oath or affirmation required of the clerk of the circuit court.

Honorable Gene L. Armentrout - 2.

Section 9 of "AN ACT to revise the law in relation to clerks of courts" (Ill. Rev. Stat. 1977, ch. 25, par. 9) authorizes the appointment of deputy clerks with the following language:

"They [clerks of courts] may, when necessary, appoint deputies, who shall take the same oath or affirmation as is required of the principal clerk, which shall be filed in the office of the secretary of state."

The powers of a deputy clerk appointed under section 9 are derivative in nature (People v. San Filippo (1929), 255 Ill. App. 554, 556), and a deputy clerk has no official existence except through and under his principal. Woodward v. Donovan (1912), 167 Ill. App. 503, 513.

Because a deputy clerk has no existence independent of his principal, and because, due to the nature of the appointment, the appointment power of such principal cannot extend beyond the end of the term in which the principal makes an appointment, it must be concluded that a deputy's term expires with the term of the person appointing him, even if the appointing officer succeeds himself. Therefore, a clerk of the circuit court would have to reappoint his deputies upon

Honorable Gene L. Armentrout - 3.

commencement of a new term, and those deputies would have to
take the same oath or affirmation as their principal.

Very truly yours,

ATTORNEY GENERAL