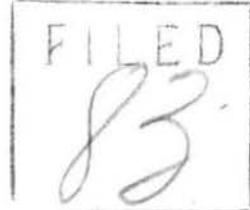


CITIES OF THE FOURTH CLASS: Collector elected to fill  
vacancy holds office for full  
period of vacancy.

June 15, 1936

6-16



Honorable Wayne V. Slankard  
Prosecuting Attorney  
Newton County  
Neosho, Missouri

Dear Sir:

We acknowledge your request for an opinion dated  
June 10th, which reads as follows:

"Wish you would please let me have  
your opinion on the following:

"The City of Neosho is a city of  
the fourth class. At the regular  
city election held on the first  
Tuesday of April, 1936 a City Col-  
lector was elected. Approximately  
two months after he was elected  
and qualified he died. A special  
election was called and proper  
notice given and a new collector  
was elected. What will be the  
length of his term.

"In other words, will he hold of-  
fice until the next city election  
at which time City Collector is to  
be elected, or will he hold his  
office until the April election  
1937 at which time the aldermen are  
elected."

Section 6949 R. S. Mo. 1929, provided in part:

"A general election for the elective  
officers of each city of the fourth  
class shall be held on the first  
Tuesday in April next after the or-  
ganization of such city under the  
provisions of this article, and  
every two years thereafter; \* \* \* \*."

Section 6951 R. S. Mo. 1929, provides in part:

"The following officers shall be elected by the qualified voters of the city, and shall hold office for the term of two years and until their successors are elected and qualified, to wit: Mayor, marshal, collector and board of aldermen,\* \* \*."

You state in your request that a special election was held according to the provisions of Section 6973, R. S. Mo. 1929, which reads as follows:

"If a vacancy occur in any elective office, the mayor or the person exercising the duties of the mayor shall cause a special election to be held to fill such vacancy, giving at least ten days' notice thereof by publication in some newspaper published in the city, or at least twenty handbills posted up at as many public places within the city: Provided, that when any such vacancy occurs within six months of a general municipal election, no election shall be called to fill such vacancy, but the same shall be filled by the mayor or the person exercising the duties of the mayor by appointment: Provided further, that any vacancy in the office of aldermen which may occur within said six months preceding a general municipal election shall be filled in such manner as may be prescribed by ordinance. If a vacancy occur in any office not elective, the mayor shall appoint a suitable person to discharge the duties of such office until the first regular meeting of the board of aldermen thereafter, at which time such vacancy shall be permanently filled."

Article XIV, Section 5, Missouri Constitution provides:

June 15, 1936.

"In the absence of any contrary provision, all officers now or hereafter elected or appointed, subject to the right of resignation, shall hold office during their official terms, and until their successors shall be duly elected or appointed and qualified."

CONCLUSION.

The office of Collector in cities of the fourth class is an elective office.

The term of office for collectors in cities of the fourth class is a two year term, and he continues thereafter in office until his successor be duly elected and qualified. The death of a duly elected and qualified collector causes a vacancy in that portion of the statutory term which would have been served by deceased had he lived. One duly elected at a special election, as a successor to a deceased person, to fill a vacancy under the provisions of Section 6973, supra, is entitled to serve the full period of vacancy caused by death. Such is the reasonable construction of the statutes, supra.

We are of the opinion that the collector elected to fill the vacant office, specified in your request, has the legal right to serve continuously until the general election in April, 1938, and thereafter until his successor be duly elected and qualified.

Yours very truly

WM. ORR SAWYERS  
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.  
(Acting) Attorney General.