

FILE

Subject

*Elections - Vacancies
and Withdrawals*



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STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

July 15, 1974

Opinion No. 74- 228

David P. Mikesic
Assistant District Attorney
Wyandotte County Courthouse
7th and Barnett
Kansas City, Kansas 66101

Dear Mr. Mikesic:

You advise that in 1970, there was elected a county treasurer of Wyandotte County, who took office the second Tuesday of October, 1971, pursuant to K.S.A. 19-501. At the general election of 1972, this individual was reelected to that office, to commence that term in October, 1973. However, prior to the commencement of that term, in January, 1973, this person resigned, and a successor was appointed to fill the resulting vacancy pursuant to K.S.A. 19-504, which states in pertinent part thus:

"In case the office of county treasurer shall become vacant, there shall be appointed a qualified elector of the county to perform the duties of such treasurer, and the person so appointed . . . shall be invested with all the duties of such treasurer for the remainder of the unexpired term and until a successor shall be elected and qualifies."

This appointment, however, has been construed as extending to and through the term commencing in October, 1973, and the individual so appointed presently holds the office of county treasurer. You inquire whether the appointment remains valid at this time.

The resignation, in January, 1973, was effective to terminate the service of the person then holding that office, and the person so appointed as a successor at that time was entitled, by virtue of that appointment, to complete the unexpired term then running, i.e., that term expiring in October, 1973. He is entitled, in addition, to serve "until a successor shall be elected and quali-

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fies." The person elected at the general election in November, 1974, is elected to the term commencing October, 1975. The person appointed in January, 1973, is entitled to continue serving as treasurer, by virtue of his appointment under K.S.A. 19-504, not only until a successor is elected, i.e., November, 1974, but until that successor qualifies. The person elected to that office at the forthcoming general election cannot, by law, commence his term until October, 1975. Accordingly, the present appointee is legally entitled by virtue of his appointment to hold the office until October, 1975, when the person elected this year assumes the office.

Yours very truly,


VERN MILLER
Attorney General

VM:JRM:jsm