

City Alderman—Vacancy—Duration of Term of Appointee.

The appointee named to fill the unexpired term of an Alderman holds for the remainder of the unexpired term, irrespective of whether or not a general city election is held prior to the expiration of the term.

R. B. Hayes, Esq.,
County Attorney,
Miles City, Montana.

My dear Mr. Hayes:

Referring to your inquiry in regard to whether, when a vacancy in a City Council has been filled by appointment, the appointee is to hold for the remainder of the term, or only until the next general city election, Section 5015 of the Revised Codes of 1921 is as follows:

“When any vacancy occurs in any elective office, the council, by a majority vote of the members, may fill the same for the unexpired term, and until the qualification of the successor. A vacancy in the office of alderman must be filled from the ward in which the vacancy exists, but if the council shall fail to fill such vacancy before the time for the next election, the qualified electors of such city or ward may nominate and elect a successor to such office.”

If it were not the intention of this statute that the person placed in office to fill a vacancy should hold the office for the rest of the term, the second provision of the section would have no meaning. If he were to occupy the office only until the next election, then, of course, a successor should be elected. From this it follows that the appointee to fill the unexpired term holds for the remainder of the unexpired term, irrespective of whether or not a general city election is held prior to the expiration of the term.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.