

Opinion No. 50-5274

January 6, 1950

BY: JOE L. MARTINEZ, Attorney General

TO: Richard F. Rowley District Attorney Ninth Judicial District Clovis, New Mexico

{*121} You have requested of this office an opinion upon the following set of facts:

The present county assessor of Quay County was appointed to her position in November of 1946 to serve the remainder of the term of her late husband. She was further appointed to serve the entire term, beginning January 1, 1947 and terminating December 31, 1948. This appointment was by virtue of the fact that her husband died the day after his reelection to office, leaving a vacancy for the remainder of his first term and his entire second term. The assessor is now serving by virtue of her election in November, 1948, for a term of office beginning January 1, 1949 and terminating December 31, 1950. Your question is whether or not the assessor is eligible for reelection to the same office for an ensuing term of two years, commencing January 1st of next year.

Article 10, Section 2 of the Constitution provides as follows:

"All county officers shall be elected for a term of two years, and **after having served two consecutive terms**, shall be ineligible to hold any county office for two years thereafter". (Emphasis Ours.)

It appears that the assessor, at the completion of her present term, will have served two complete consecutive terms of office -- the first by appointment and the second by election, and will have served an additional period of approximately two months in completing another's term of office. This office has previously held that the period of two months served does not constitute a term of office. See Opinion No. 4964. Under the second appointment, however, the assessor did serve a full term of office and has also been elected for a full term of office. The precise question, therefore, is whether or not the portion of Section 2 of Article 10 of our Constitution underscored above contemplates elective terms of office only, or whether it includes an appointment for a full term of office. You will note that this provision provides for ineligibility "after having served two consecutive terms" and says nothing about these terms being necessarily elective terms.

It is my opinion that the assessor of Quay County has served two consecutive terms within the meaning of the Constitution and is ineligible to seek reelection to her present office, and is ineligible to be elected or appointed to any county office for a period of two years from and after the expiration of her present term of office.