

Opinion No. 12-946

October 1, 1912

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Manuel B. Baca, Adelino, N. M.

ACEQUIAS.

Election for mayordomos of acequias in Valencia County should be held first Monday of December.

OPINION

{*103} I have today received your letter of the 28th of September in which you say that you wish to know when the election of mayordomos of acequias should be held in the county of Valencia.

Prior to 1903 such elections clearly were to be held under the provisions of Section 9 of the Compiled Laws of 1897. That section provided that the officers of acequias should consist of three commissioners and one mayordomo, each of whom should be the owner of an interest in the acequia or the water therein, and should be elected annually on the first Monday of December, and should assume the duties of their offices not later than the first Monday of the following January. In 1903 by Chapter 32 of the laws of that year, this section was amended so that the election should be held on the first Monday of October, and the officers should assume their official duties not later than the first Monday of the following November; but by the last section of that act of 1903 it was provided that none of the parts or provisions of that act or any section thereof should apply or be construed to be in force or effect in twenty counties which were named, one of which was Valencia county. This left only four counties in which the act would be in force.

{*104} In this condition of the law two views might be taken as to the twenty counties in which the act was not to be in force. The first of these would be that Section 9 of the Compiled Laws of 1897 should be construed as continuing in force so far as those twenty counties are concerned, and the other is that in those twenty counties no provision of law is left as to the time of such elections.

It seems clear that in those twenty counties there is no authority for holding the election in October and my advice is, no matter which of the two views above suggested should be taken, the elections would better be held on the first Monday of December as provided in said Section 9. If that section can be construed as still in force, the election would of course be regular; and if it should be held that that section no longer exists, then the people of each community acequia can hold their election at a time to be fixed

by them. It would be safer, however, for them to fix the time prescribed in Section 9, so that in any event the election would be valid and regular.