

Opinion No. 13-1091

August 9, 1913

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. I. A. Rice, Secretary, Bloomfield Irrigation District, Bloomfield, N. M.

IRRIGATION DISTRICTS.

Director of irrigation district not disqualified by removing to another division of the district.

OPINION

{*263} I am in receipt of your letter of the 3rd inst. in which you ask for the opinion of this office as to whether a director of an irrigation district, who has been elected from one division thereof and subsequently removes to another division of the district, is disqualified from performing his duties as such director.

This office is of opinion that a duly elected director who removes to another division of the district is not disqualified from holding the office, and I will briefly give you the reasons for so holding.

Section 10 of Chapter 109, Laws of 1909, which is an act providing for the creation of irrigation districts, provides that in case of a vacancy in the board of directors by death, removal, or inability from any cause to properly discharge the duties of his office, the vacancy shall be filled by the remaining members of the board. The word "removal" in this connection does not mean a change of residence from one division to another, but means a removal from office, as provided in Chapter 36, Laws of 1909. The act last mentioned refers to a district officer, and under Section 3 thereof, Subdivision 5, it is provided that an office becomes vacant when the officer removes from the county in which he is elected, and in the case of municipal officers when he removes from the town or city for which he is elected. From this, it will be seen that unless a director of an irrigation district removes from the county, he is not disqualified from discharging the duties of the office to which he was elected. An analogous case would be that of a county commissioner who was elected from district No. 1 and subsequently changed his residence to district No. 3. Such change of residence would not, under our statute, disqualify him.