

Opinion No. 14-1256

June 24, 1914

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. Fred B. Faust, Magdalena, New Mexico.

PROHIBITION ELECTION.

Procedure where judges at a prohibition election fail to appear.

OPINION

{*116} I am in receipt of your letter of the 23rd instant in which you state that what is known as a prohibition election has been called for June 30th at the town of Kelly, and that the judges of such election, who were appointed, have left. While you do not so state I apprehend that this election is to be held as provided for in Chap. 78 of the Session Laws of 1913, it being my understanding that Kelly is not an incorporated town or village. Therefore if the election is to be held under the provisions of Chap. 78, and the judges heretofore appointed by the county commissioners fail to attend, then the voters present at the polls where such vacancy occurs should proceed as authorized by Sec. 9 of Chap. 105 of the Session Laws of 1909, which reads as follows:

"If the County Commissioners shall fail to appoint the election judges provided by this act, or if from any cause they shall fail to attend at their respective precincts on the day of election, it shall be lawful for a majority of the qualified voters in the precinct present at the polls where said vacancy occurs to appoint judges who shall conduct said election in the same manner and to the same effect as if they had been appointed by the County Commissioners: **Provided, however,** That no more than two of such judges shall be of the same political party."