

Opinion No. 15-1555

June 16, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. J. A. Will, Duran, N. M.

No law by which a surety on bond of a justice of the peace can withdraw from his obligation.

OPINION

{*138} I have received your letter of the 6th of June which does not appear to have been mailed until the 14th. You say, in substance, that in April one of the sureties on your bond as justice of the peace withdrew from the bond and at a special meeting of the County Commissioners another person was appointed justice of the peace, in your place. I know of no provision of law by which a surety on the official bond of a justice of the peace can withdraw from his obligation. In your case it seems that the County Commissioners must have adjudicated that the office was vacant and proceeded to appoint another person. If the office were really vacant, it would {*139} be the duty of the Board of County Commissioners to fill the vacancy by appointment, but no vacancy was created by the attempt of one of your sureties to withdraw from the bond as there is no provision of law authorizing any such withdrawal.