

Opinion No. 19-2154

January 13, 1919

BY: HARRY S. BOWMAN, Assistant Attorney General

TO: Mr. O. H. Greene, County Clerk, Lea County, Lovington, New Mexico.

County Commissioner Not Disqualified by Removal from One District in County to Another.

OPINION

Upon becoming connected with the office of the attorney general on the first instant, I found your letter of December 24th directed to Hon. Harry Patton, making inquiry concerning the disqualification of a county commissioner in the event of his moving from one district in the county to another.

So far as I am able to ascertain this was never answered, although you requested a reply by wire.

Under date of October 31, 1912, Mr. Frank W. Clancy, Attorney General at that time, rendered an opinion to Mr. G. C. Hampton of Aztec, New Mexico, wherein he held that a county commissioner elected from one district would not be disqualified from acting as county commissioner if he had removed from the district for which he was elected to another district within the county. In that case, of course, he had qualified and been acting as commissioner for the district for which he had been elected.

I believe that this opinion is sound, and that the same rule would be applied to the case mentioned in your letter, that is, a case where a commissioner had been elected for one district but before he had qualified had removed to another district in the county.

As is stated in the opinion above mentioned, a county commissioner is elected to serve for the entire county of which he is a resident, and not for the particular district from which he is elected; and I am also of the opinion that section 13 of article 5 of the constitution wherein it provides that certain officers shall be residents of the political sub-division for which they are elected or appointed would not necessarily prohibit the assumption of the office because of removal subsequent to that time.

For a more detailed discussion of the matter, I refer you to opinion number 995 appearing on page 110 of Opinions of Attorney General of New Mexico, January, 1912, to December, 1913, to which opinion we adhere in the matter in question.