

**Opinion No. 20-2649**

July 21, 1920

**BY:** HARRY S. BOWMAN, Assistant Attorney General

**TO:** Mr. Harry Hollomon, Village Clerk, Tularosa, New Mexico.

Municipal Officers Holding Over.

**OPINION**

Former Attorney General Frank W. Clancy has referred to this office your letter of the 15th instant requesting information regarding the authority of the town board of your village to act, in view of the fact that no election for a mayor or town board was held last spring, and also asking how a mayor should be appointed in the event of the resignation of the person holding that office.

Officials in this state are elected for a certain definite period of time and "until their successors are elected and qualified." Therefore, your mayor and trustees are qualified to remain in office until the law has been complied with and their successors have been elected and have qualified according to law.

Of course an election should have been held and it is possible that the officers who are to blame for the failure to call or to hold such election are liable to removal from office or to punishment for their delinquency, but such a condition does not deprive the municipality of a governing body as would be the case in event it should be held that the mayor and board of trustees have no authority to act as such after the period has elapsed within which their successors should qualify.

In reply to your second inquiry regarding the method to be adopted to fill the vacancy existing by reason of the resignation of the mayor, we beg to refer you to the opinion of former Attorney General Frank W. Clancy, under date of September 29, 1914, to Mr. Florencio A. Trujillo, Village Clerk, of Springer, New Mexico, wherein this question is discussed and an opinion rendered.

There have been no changes in the laws since the writing of this opinion, and as the views expressed therein coincide with our own in regard to the matter, we are enclosing a copy of the opinion for your guidance.