

Opinion No. 21-2802

January 28, 1921

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. George Salmon, Bloomfield, New Mexico.

Women Not Qualified to Hold Offices of Justices of the Peace and Constable.

OPINION

{*20} We have your letter of the 22nd instant regarding the qualifications of women to hold the offices of justices of the peace and of constable in this state, and in reply wish to advise you as follows:

The qualifications for public office in this state are prescribed by Section 2 of Article VII of the Constitution, and in part are as follows:

"Every **male** citizen of the United States who is a legal resident of the state and is a qualified elector therein, shall be qualified to hold any public office in the state, except as otherwise provided in this Constitution; provided, however, that women possessing the qualifications of male electors prescribed in paragraph one of this article shall be qualified to hold the office of county school superintendent and shall also be eligible to election to the office of school director or members of the board of education."

You will note from the foregoing that only male citizens are qualified to hold office with the exceptions provided for in the section quoted.

The makers of the Constitution provided for the holding of some offices by women, and thereby limited the holding of office by women to those specifically named.

As women are not, by the Constitution, authorized to hold the office of justice of the peace or constable, it is our opinion that they cannot legally qualify for such an office.

On September 5, 1916, former Attorney General Frank W. Clancy rendered an opinion to Mrs. Laura Wilson Johnson, of Palomas Hot Springs, New Mexico, in which he held that women could not hold municipal offices for the reason that the exceptions named in the above mentioned section are exclusive, and that women could not hold any other offices than those mentioned in the section.

The offices of justice of the peace and constable falls within the same class as municipal offices with reference to the question suggested.