

Opinion No. 23-3741

November 27, 1923

BY: MILTON J. HELMICK, Attorney General

TO: Requested by: Hon. J. E. Owens, Educational Budget Auditor, Santa Fe, New Mexico.

County Officer Having Served Two Consecutive Terms in Either the Same or Two Different Offices is not Eligible to Hold any County Office for a Period of Two Years Thereafter.

OPINION

{*106} Inquiry is made as follows:

"Please advise me whether or not a County Official can succeed himself, who has prior to his election to his present office, held another office in the same County for one term. In other words, can a person now holding a County office succeed himself when as a matter of fact the same official held another office within the same county for the years 1921-22."

The identical question asked was answered by former Attorney General Bowman on March 23, 1921, in an opinion to the Governor. He quoted the constitutional provision -- Section 2 of Article 10 -- as follows:

"All county officers shall be elected for a term of two years, and after having served two consecutive terms, shall be ineligible to hold any county office for two years thereafter."

and then said:

"In my opinion, after having served two consecutive terms in either the same or two different offices, a person is not eligible to hold any county office for a period of two years."

In the case under consideration then a person had served a term as County Commissioner, and a subsequent term as Sheriff, and was seeking another County office by appointment.

I agree with the opinion of the former Attorney General and, although there is no judicial authority to be found on the question, I think the wording and intention of the constitutional provision is plain and clear and has the necessary effect of excluding a person from a third term in county office, even though the two prior terms were in different offices.