

Opinion No. 41-3951

November 19, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. H. K. Ball Administrative Officer State Soil Conservation Committee State College, New Mexico

{*127} In your letter dated November 12, 1941, you request an opinion from this office relative to an election in a Soil Conservation District for three supervisors. You state that after a nominating petition was signed, the election was held, and a very small number of ballots were cast for two of the three supervisors, while no votes at all were cast for one candidate, and you inquire whether all three supervisors were elected or only the ones who received votes.

In the absence of any vote whatever, it is my opinion that the candidate for the office of one supervisor was not elected to that office, and for that reason only the two who received votes were elected. Section 7, Chapter 219, Laws of 1937, provides the method for filling vacancies in the language:

"* * * The selection of successors to fill an unexpired term, or for a full term, {*128} shall be made in the same manner in which the retiring supervisors shall, respectively, have been selected."

It is apparent that the vacancy, if one exists, may be filled by calling another election for that purpose. However, if this district is one which has heretofore had duly elected or appointed supervisors, then the supervisor whose place the nominee receiving no votes was intended to fill still holds office until his successor has been elected or appointed, and has qualified.

By C. C. McCULLOCH,

Asst. Atty. General