

**Opinion No. 43-4358**

August 6, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Honorable Claron E. Waggoner, District Attorney, Socorro, New Mexico

In your letter dated August 4, 1943, you state that the County Commissioners failed to comply with Section 56-211 of the 1941 Compilation in appointing Registration Boards on or before the first Monday of February of this year. You wish to know whether the old board members hold over as a Board of Registration and whether the County Commissioners may now appoint a new board.

Section 56-211 provides for the appointment of Boards of Registration by the County Commissioners, based upon a list of names furnished by the Chairman of each of the two dominant political parties, at a meeting to be held on the first Monday of February of each odd numbered year. This section provides that such board of registration shall hold office until their successors are appointed and qualified as herein provided.

Article 20, Section 2, of the State Constitution provides as follows:

"Every officer, unless removed, shall hold his office until his successor has duly qualified."

Section 10-301, sub-section 4, 1941 Compilation, provides that any local office, which would include the office of member of the Registration Board, becomes vacant upon the expiration of the term of office when no successor has been chosen as provided by law. Although the office is declared vacant under the statute, yet the members of the present Board of Registration hold over until the vacancy is filled and the new members qualify.

In view of this fact the County Commissioners may now appoint new members of the Boards of Registration and when such new members qualify the old board will automatically cease to exist. It is suggested that Section 56-211 above mentioned be followed, if possible, relative to allowing the respective County Chairmen to furnish a list of persons whom they recommend for appointment to said board.

By C. C. McCULLOH

First Asst. Atty. Gen.