

Opinion No. 66-126

November 23, 1966

BY: OPINION OF BOSTON E. WITT, Attorney General Oliver E. Payne, Deputy Attorney General

TO: Mrs. Alberta Miller, Secretary of State, State of New Mexico, State Capitol Building, Santa Fe, New Mexico

QUESTION

QUESTION

Since January 1, 1967, falls on a Sunday, should the swearing in ceremonies be postponed until January 2, 1967?

CONCLUSION

No.

OPINION

{*169} ANALYSIS

Section 43-1-1, N.M.S.A., 1953 Compilation provides the form of oath to be given persons who are required to take an oath before entering upon the discharge of their duties.

Article XX, Section 1, of the New Mexico Constitution, provides that:

"Every person elected . . . to any office shall, before entering upon his duties, take and subscribe to an oath or affirmation that he will support the Constitution of the United States and the Constitution and laws of this state, and that he will faithfully and impartially discharge the duties of his office to the best of his ability."

Article V, Section 1, of the New Mexico Constitution provides that the term of office for the executive officers enumerated therein shall begin "on the first day of January next after their election." Article XX, Section 3, of the New Mexico Constitution also states that terms of office "shall commence on the first day of January next after his election."

It has been customary in this State to have the governor-elect take the oath at a noon ceremony on January 1. Under the doctrine enunciated in **Bowman Bank & Trust Co. v. First National Bank**, 18 N.M. 589, 139 Pac. 148, the incumbent remains in office until his successor takes the oath. This is in keeping with Article XX, Section 2, of the New Mexico Constitution. Thus, in the past, the incumbent has held over for a

twelvehour period. But the successor has taken the oath **on** the first day of January, the date his term is to commence in accordance with the Constitution.

There is no legal objection to taking the oath on a Sunday and since January 1, 1967, falls on a Sunday that is the day the governor-elect should take the oath of office.