

Opinion No. [30-47]

March 15, 1930

BY: J. A. MILLER, Assistant Attorney General

TO: Robert A. Estes, Attorney at Law, Hobbs, New Mexico.

BUNICIPAL CORPORATIONS -- Election of officers. § 90-206, Code 1929 § 90-3504, Code 1929.

OPINION

Reference is made to yours of the 8th inst. in which you mention the situation in Hobbs as effecting the officers elected on the 8th of June, 1929.

In this connection your attention is directed to section 90-206 of the 1929 Codification which provides for a first election of officers in the newly incorporated municipality. Your attention is further directed to section 90-604, which is applicable to the regular elections.

It may be that you had in mind both of these sections at the time you held your election but if so I suspect you misinterpreted the sections. It is our opinion that the officers elected at the first election, that is, those provided in section 90-206, enter upon the duties of their office immediately after election and hold until the next regular election which follows on the first Tuesday of April in the even numbered years. I know of no authority in the Board of County Commissioners to appoint, as seems to have been done in your town. If, however, those who are now serving as officer were elected under the provisions of section 90-206, the fact that they were also appointed by the county commissioners will not disqualify them, they being qualified under the election too for the term to be covered between that first election and the one soon to come.

It is the opinion of this office that you should, on the first Tuesday of April, 1930, hold a regular election for officers who shall qualify and enter upon the duties of their respective offices on the first Monday of May, 1930, at which time those now holding office will be replaced. See section 90-3504.