

OPINION
56-61

December 7, 1956 (OPINION)

COUNTIES

RE: Coroner - Qualifications

This is in reply to your letter of November 29, 1956, requesting an opinion of this office in regard to qualifications of coroners under chapter 115 of the 1955 Session Laws.

As you state, the only eligibility requirement for coroner stated in the new law is that he must be duly licensed as a physician for two years before his appointment.

You call our attention to the provision of section 11-1004 of the N.D.R.C. of 1943 to the effect that "A county officer must be a qualified elector in the county in which he is chosen or appointed, and a county commissioner must be a qualified elector in the district from which he is chosen."

Your question is whether a local physician, in order to be eligible to be appointed coroner, would have to be a qualified elector of this county.

The Reviser's note to section 11-1004 (supra) states: "The provisions of this section have been taken from N.D. Constitution Section 173, as amended. There is no general provision in the codes showing these qualifications of county officers." Section 173 of the North Dakota Constitution does not apply this qualification to officers of the county other than the register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge and clerk of the district court.

In the codification of statutes, it is the general presumption that the codifiers did not intend to change the law. (See: State ex rel Johnson v. Broderick, 75 N.D. 340 27 N.W. 2d. 849) However, it is our conclusion that the language of this statute does evidence an intention to extend the constitutional qualification to all persons falling within the definition of "county officers".

Looking to chapter 115 of the 1955 Session Laws, we find the position considered to be referred to as the "office of coroner", and the person filling such position to be referred to as an "officer." We find such person filling such position being given both quasijudicial and ministerial functions. It is therefore our opinion that such person filling the position of county coroner is a county officer and that such county officer is by the terms of section 11-1004 of the N.D.R.C. of 1943 required to be a qualified elector of the county from which he is appointed.

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