

**OPINION**  
**47-64**

August 27, 1947            (OPINION)

COUNTIES

RE: Treasurer's Term Limited to Four Years in Succession

Re: Chapter 11-14, North Dakota Revised Code of 1943

Your letter of August 25 has come to my desk for reply.

This office has had several occasions to construe the above section. One opinion is given in the Attorney General's Report of 1944-46 at page 56. Perhaps your County Auditor or State's Attorney has a copy of this report.

The purpose the constitutional convention had in limiting the treasurer and sheriff to two successive terms was to minimize the opportunity for either officer to embezzle public money and to cover up the defalcation by continuing in office indefinitely. We have, therefore, construed this statute strictly--that is, we have held it to mean just what it says neither officer shall hold office for more than four years in succession.

Your question is: "Now if the treasurer has served four years in succession and a new treasurer is elected and then resigns in one year or six months, does the former treasurer qualify for the office if he is appointed by the County Commissioners?"

It is my opinion that the old treasurer could be appointed by the County Commissioners and that he could qualify for the office. His service in the office would not be more than four successive years, because, after the end of the first four years, another treasurer assumed the office, and when the old treasurer is appointed to fill the vacancy caused by the resignation of his successor his service in the office would not be continuous because of the interval of service of the resigning treasurer.

Therefore, in my opinion, the former treasurer may be appointed to fill the vacancy caused by the resignation of his successor, provided, of course, his successor had assumed office and served in office. That is, had not resigned before his term began.

NELS G. JOHNSON

Attorney General