

OPINION
51-194

April 5, 1951 (OPINION)

TOWNSHIP

RE: Failure to Hold Annual Meeting

Your letter of March 30th has been received. You state that your township did not hold its annual meeting and you ask for our opinion on three specific questions, viz.,

1. Can the levy as made for the year of 1950 be transferred also for the year 1951?
2. If 12 freeholders do not petition for a later date of election would then the township lose its levy for 1951, or can the supervisors cause the levy of 1950 to be transferred also to 1951?
3. Is it legal procedure for a township to postpone its annual election?

Your first two questions will be answered together. The township tax levy is authorized by section 57-1516 of the 1949 Supplement. This section clearly provides that the electors, at the annual meeting shall have power "to vote to raise such sums of money for the repair and construction of roads and bridges, and for all township charges and expenses as they deem expedient, within the limitations prescribed in section 57-1520." Other sections of the statutes provide for other special levies but these are to be made by a majority vote at the annual township meeting. We find no authority given to the township board to make any tax levy unless and until it is authorized at a town meeting.

There is no provision whatsoever for postponing the annual town meeting, but there is a provision, section 58-0419 N. D. R. C. for the calling of a meeting where the annual meeting was not held. And at this "called" meeting the electors have all the authority they have for the annual meeting.

Therefore, it is our opinion that there is no authority to use the 1950 levy in any way in lieu of a levy authorized at a special meeting called under section 58-0419. There is grave doubt of the legality of a levy made in any other way. It is also our opinion that the annual meeting may not be postponed, except possibly by those present at a regular meeting date when not sufficient electors are present to constitute a legal meeting. We do not think that if no meeting at all was held on the annual meeting date there is authority in any officer or board to then postpone the meeting to a later date.

Possibly, if this is done, and there is a full turnout at the postponed meeting, the courts might hold such a postponed meeting to be a legal meeting. We do not advise such a procedure, however.

ELMO T. CHRISTIANSON

Attorney General