

**Opinion No. 53-5821**

October 2, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Beatrice B. Roach Secretary of State Santa Fe, New Mexico

{\*230} In your letter dated September 8, 1953, you refer to Opinion No. 5819 relative to Constitutional Amendment No. 10 proposed by the 1953 Legislature, and in view of that opinion you inquire whether Chapter 53, Laws of 1953, pertaining to absentee voting is constitutional.

In the case cited in the opinion referred to, the Supreme Court ruled that under Article 7, Section 1 of the Constitution, a voter is required to cast his ballot in person in the precinct in which he offers to vote, and in Thompson vs. Scheier, 40 N.M. 199, 57 P. 2d 293, the Court held that the statute making effective the proposed absentee ballot amendment submitted in 1920 was unconstitutional. In view of the presently existing Supreme Court decisions mentioned in the previous opinion referred to, it is our opinion that {\*231} Chapter 53, Laws of 1953, is unconstitutional and violates the provisions of Section 1, Article 7.

By: C. C. McCulloh

Assist. Attorney General