

Opinion No. 14-1286

July 27, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Mr. J. E. Pardue, Fort Sumner, New Mexico.

PROHIBITION ELECTION.

Qualifications of electors at prohibition elections.

OPINION

{*146} Your letter of the 25th instant was received here yesterday, Sunday. You ask my opinion as to whether a homesteader, whose homestead is without the area of a prohibition election district, may lawfully vote within the area voting on prohibition.

The statute of the United States requires a homesteader to reside upon his land for a specified time, and he would run the risk of trouble with the Land Office if he did anything to indicate an interruption of such residence. I assume that the prohibition election to which you refer is one under Chapter 78 of the Laws of 1913, and should be voted upon by the "qualified electors" of the district which may be affected. A qualified elector, as you will see by reference to Section 1 of Article VII of the Constitution, must have "resided in New Mexico for twelve months, in the county ninety days, and in the precinct in which he offers to vote thirty days, next preceding the election." I do not see how one can have the right to vote in the prohibition election unless he resides within the district, and in addition to this, Section 4 of said Chapter 78 says "Only qualified electors resident within the limits of such district shall be allowed to vote at such election."

I have no doubt that homesteaders who have homesteads outside of the district cannot lawfully vote at such an election.