

Opinion No. 15-1451

March 1, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. C. W. McSherry, Silver City, New Mexico.

Residents of Fort Bayard Military Reservation not entitled to vote at any elections in the state.

OPINION

{*40} I have your letter of the 26th ult. in which you say that there are at the United States Sanatorium at Fort Bayard, a number of Soldiers' Home men who have been discharged from the army, but who have been permitted to become inmates of the institution because of disability contracted during the term of their service in the army, and you ask whether, in my opinion, they are qualified voters if they do not fall within the exceptions specified in the proviso of Chapter 134 of the Laws of 1909.

The men who reside on the Fort Bayard Military Reservation are not to be considered as citizens of the State of New Mexico, nor entitled to vote at any elections in the state. By Chapter 35 of the Laws of 1913, the State of New Mexico ceded to the United States exclusive jurisdiction over all the territory comprised within the limits of the Military Reservation of Fort Bayard in Grant County, reserving only the right to serve civil or criminal process within the Reservation in suits or prosecutions for or on account of rights acquired, obligations incurred or crime committed in the state outside of the Reservation. It seems to be the uniform holding that where such exclusive jurisdiction has been ceded to the United States, the inhabitants of the place cease to be inhabitants of the state and can no longer exercise any civil or political rights under the laws of the state. This is explicitly stated by Judge Story at Section 1227 of his Commentaries on the Constitution. The reasoning appears to be that on such territory which is within the exclusive jurisdiction of a government other than that of the state within whose boundaries the territory may be situated, persons are not residents of the state and, therefore, not entitled to vote at any state election.