

## Opinion No. 16-1877

October 5, 1916

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. Cipriano Lujan, Sabinoso, New Mexico.

**As to the duties of boards of registration for elections.**

### OPINION

{\*426} I have just received your letter of the 2nd instant asking for my opinion about Section 1964 of the Codification of the Statutes of New Mexico, which section relates to the appointment and duties of boards of registration. You say that some question has arisen as to the registration of persons who are temporarily absent from the precinct, and even from the county, engaged at work, while their residence, property and families are within the precinct.

A man does not lose his residence within the precinct or county by temporary absence, and the fact that his house and property and family remain in the precinct is very strong evidence of his intention to retain his residence in the precinct. Such a man ought to be registered if the facts are within the knowledge of the board of registration, even if no affidavit is presented, but the section to which you refer distinctly provides that any person desiring to procure the registration of any resident of the precinct who possesses the necessary qualifications, but who is temporarily absent, may make an affidavit setting forth that he is acquainted with the absent voter, and that he possesses all of the qualifications as to being a citizen of the United States, his residence in the state for twelve months, in the county for ninety days and in the precinct for thirty days next preceding the election, and that he is not disqualified for any reason from being registered or from voting.

Upon the presentation of such an affidavit the statute declares that it shall be the duty of the board to place the name of the person described in the affidavit on the registration list, and they cannot thereafter remove the same. If, however, upon the presentation of the affidavit the board should refuse to register the name of the voter, the remedy would be to apply to the district court for a mandamus to the board ordering the board to register the voter.

You can undoubtedly get some member of the bar, who belongs to your political party, to take the matter up and get the order from the court.

There is not the slightest doubt that you are entirely correct in your position as to the registration of such voters who are temporarily absent.