

Opinion No. 32-498

August 13, 1932

BY: Frank H. Patton, Asst. Attorney General

TO: Mr. T. W. Medley, Quemado, New Mexico.

{*172} Request has been made of this office to render an opinion as to whether or not certain people in Catron County, New Mexico, are entitled to be registered to vote in the coming general election. The facts, as stated to us, being as follows:

Certain people from the State of Texas came to New Mexico on or before the 8th day of November, 1931, and completed filings for homesteads. It is understood that these people came to New Mexico with the intention to establish residence in this state, but in order to finish certain business in the State of Texas found it necessary to leave this state and return to their former homes for certain purposes.

This absence from New Mexico was merely for business purposes and we understand that at all times they considered that they had established a new residence in the State of New Mexico.

The dominant factor in determining whether a person does or does not have residence in a certain place is his state of mind and his intention. This state of mind coupled with his physical act is the determining factor and, from all the facts as given to us, it would be our opinion that these people should be considered as residents of Catron County and entitled to registration.

Should it appear that the facts are not as stated, their names may be stricken from the registration lists when the same are purged, as provided by law.

The law provides that every citizen over the age of 21 who has resided in the state 12 months, in the county 90 days and in the precinct 30 days next preceding the election, except idiots, insane persons, persons convicted of a felonious or infamous crime unless restored to political rights and Indians not taxed shall be qualified to vote.

Trusting the foregoing will be sufficient, I am