

## Opinion No. 36-1348

April 7, 1936

**BY:** FRANK H. PATTON, Attorney General

**TO:** Mr. Antonio Fernandez, Attorney at Law, Santa Fe, New Mexico.

{\*113} Your letter of April 6th, together with supplemental memorandum, states that some confusion exists in the minds of some of the voters regarding my remarks at the meeting in the House of Representatives on April 6th in connection with the constitutional provision of this State upon the question of acquiring or losing residence by reason of employment in the City of Santa Fe by the State and I desire to eliminate such confusion if I can possibly do so.

The constitutional provision to which I made reference is cited as Article VII, Section 4, and reads as follows:

"No person shall be deemed to have acquired or lost residence by reason of his presence or absence while employed in the service of the United States or of the state, nor while a student at any school."

It has been held in a number of cases that constitutional provisions of this type do not prevent persons who remove to a county while in the service of the United States or of the state from acquiring a residence in that county if they actually have the intention so to do and I did not intend to state otherwise in my remarks.

In other words, no legal reason exists whatever which prohibits any person from acquiring and establishing a residence in the City of Santa Fe merely because they happen to be employees of the state.

However, I have always stated and will continue to state that there must be something of an evidentiary nature which goes to reveal the intention and I do not believe that any person can arbitrarily say that they are residents of a certain {\*114} place unless there is something upon which can be based grounds for such intention.

So far as residence being a matter of intention is concerned and the right to change residence at any time I heartily agree, but the fact remains that no person can have but one domicile and that that domicile remains until a new domicile has been acquired.

As you know, the cases define domicile to be that place where a person has his fixed and permanent abode and to which he intends to return when absent.