

## Opinion No. 38-1933

April 14, 1938

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

**TO:** Mr. J. V. Taylor Acting State Coordinator Soil Conservation Committee  
Albuquerque, New Mexico

{\*228} Your letter of April 11 requests an interpretation of Section 5, subsections {\*229} (a) and (c), of Chapter 219, Laws of 1937, known as the Soil Conservation Act, prescribing what persons may sign petitions for the establishment of conservation districts and who may vote in an election to determine whether a particular district should be established. Your specific questions are as follows:

- "1. Could both wives and husbands, owning lands in common, vote?
2. Could minors, through guardian or executor, vote?
3. Could administrators of estates owning lands, vote?
4. Could absentee landowners vote through proxies?"

First of all it is my opinion that the Legislature in this matter had the authority to fix any kind of reasonable qualifications for petitioners and voters, and that it did do so, except that it left to the Soil Conservation Committee the duty of determining by rules and regulations the manner of exercising the right to vote and petition. Such rules and regulations would probably be necessary with respect to non-resident land owners.

Second, the only qualifications prescribed are that the voters and petitioners be land owners. In this state both the husband and wife who own community real estate are land owners, and therefore both are entitled to sign the petitions and to vote. In determining whether the petition has been properly signed in accordance with subsection (a) of Section 5 of the Act, the name of the wife as well as the name of the husband in such cases is counted.

Minors who own land are entitled to vote. Non-resident land owners are also entitled to vote. However, the right to vote and to petition may not be exercised by guardian or by proxy.

In this state real estate descends directly to the heirs of a decedent, and, therefore, the administrator of a decedent who owned real estate may not exercise the right to vote or petition under this Act.

Trusting that the above fully answers your questions, I remain,

By: A. M. FERNANDEZ,

Asst. Atty. Gen.