

Opinion No. 39-3217

July 20, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mrs. Jessie Gonzales, Secretary of State, Santa Fe, New Mexico. Attention: Miss Violet C. Hoffman

{*85} As I understand your request of July 19, 1939, you want to know whether registration clerks may register only residents and electors of the precinct and voting divisions to which such registration clerks have been appointed, or whether they may register those within the district who are legal voters of another precinct or voting division.

The matter is governed by Chapter 152 of the Laws of 1939. This Act is couched in simple, direct language, unusually free from unnecessary technical requirements. Its purpose is to obtain as complete registration and identification of voters as possible, in order that those entitled to vote may not be disfranchised, and those not so entitled may not vote or be voted fraudulently. All provisions of the Act are directed towards this single objective. This should be kept in mind in the interpretation and administration of the Act.

It is to be observed, first of all, that the registration unit under the Act is the county. The ultimate filing, custody and proof of registration is with the county clerk. The master registration record (See Section 38) for the entire county is alphabetically arranged in one single unit. (See Section 8). For the use of the election judges a separate list is kept for each precinct. If a voter moves from one precinct {*86} to another, or if a new precinct or election district is created, the registration affidavit is merely transferred from one of the latter lists to the other. (Sections 13 and 16). On the other hand, if an elector moves out of the county, he must register anew in the new county of his residence and the old registration is cancelled. (Section 14).

Section 2 of the Act provides:

"Any qualified elector may register by filling out and **executing the affidavit of registration** in triplicate **hereinafter provided for** and **filing the original and duplicate** of same with the county clerk of the county in which such elector resides in the manner hereinafter provided."

Section 11 provides that, "the registration clerks shall meet for the registration **of electors** at such place in each precinct or election district as shall be designated by the Board of Registration." It does not say registration of electors **of the district**.

As the name indicates, the registration clerks are merely local "clerks," with power to administer the oath required, placed in each precinct for convenience in the registration

of all electors of the county; and, if so, the words "electors" in Section 2 and 11 and "qualified electors in their precinct or election district" in Section 25 mean qualified electors of the county, which as above stated, is the registration unit under this Act. The simplicity of the Act indicates careful attention in drawing it, and it is significant that in prescribing the qualifications of registration clerks in the third paragraph of Section 10, it is specifically stated that each clerk shall be "a qualified elector **of the** precinct or election district for which appointed." This plainly indicates that the Legislature did not understand the words "electors **in** the precinct" used in the first paragraph of the same section with respect to the clerks, and the words, "electors in the precinct or election district" in Section 25 to mean "electors **of** the district." It is clear that the Legislature appreciated the distinction between the two phrases, and had it intended to limit the authority of the registration clerks to the registration of electors of the district, it would have used the latter phrase.

Section 25 provides that for the purpose of obtaining the first permanent registration, the registration clerks shall make a canvass from house to house. If, in that canvass, they are to pass up electors in those houses whose voting residence is in another district, then no provision is made for the canvass of such electors. Must electors so situated make a trip to see the county clerk, or the registration clerks in their home precinct, despite the fact that next door to them there may sit registration clerks with the necessary registration affidavit blanks available?

Such an interpretation is not within the spirit and purpose of the law as above stated. In my opinion, the voters may register with the county clerk, or may execute the affidavit of registration anywhere before any registration clerks or other officials authorized to administer the oath required for the registration affidavit. The vital requirement is that the voter fill out and execute the proper registration affidavit, and that it be filed in duplicate with the county clerk. The means through which these two things may be accomplished are unimportant, and, in my opinion, have no effect upon the validity of the registration.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.