

## Opinion No. 40-3457

March 4, 1940

**BY:** FILO M. SEDILLO, Attorney General

**TO:** Mr. David W. Carmody, District Attorney, Santa Fe, New Mexico.

{\*141} We have your letter and letters from various county clerks requesting an opinion as to whether or not electors must now register personally by executing the registration affidavit before the county clerk in his office, or whether this may be done elsewhere and the affidavit sent in for filing by mail or otherwise. Some of these letters call attention to the difficulty of personal registration at the county clerk's office because of distance, age, illness or other causes.

This office has ruled that the clerk personally or by deputies may not solicit registration outside his office. Opinion No. 3281.

However, Section 2 of the registration statute (Ch. 152, L. '39) provides that "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." The words "**in the manner hereinafter provided**" means in the form and with the requisites provided in the act. There is no specific provision that execution of the affidavit must be made before the county clerk or a registration officer.

My opinion is that registration affidavits may be filled in and sworn to before a notary public, and that they may be mailed or sent to the county clerk by messenger, and that receipt of the original and duplicate within time by the clerk completes the registration. The only language that might indicate the contrary is that contained in Section 10, providing for appointment of clerks "for the purpose of registration of electors at specified times and places, {\*142} other than the office of the county clerk."

However, the inference is not such that we can say it was intended to limit the plain provision in Section 2 authorizing registration by the execution and filing with the county clerk of such affidavits, particularly since the very purpose of the statute is to obtain as complete a registration list as possible. Furthermore, all provisions with respect to registration must be liberally construed in favor of the franchise. Sufficient protection against fraud is afforded by the permanent character of the affidavit, and by heavy penalties against all persons who take, make or assist in making false affidavits.

The forms delivered to the clerk are numbered and complete record should be kept by the clerk as to the persons to whom the affidavits are mailed or delivered, for execution, and clerks should take such other precautions as they deem wise, such as the giving of instructions as to the manner in which the affidavit may be executed and returned for filing.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.