

**Opinion No. 42-4091**

May 22, 1942

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Scott H. Mabry Assistant District Attorney Albuquerque, New Mexico

{\*199} In your letter of May 20, 1942, you relate that the immigration inspector of your district has sent to your office two triplicate registration of a person who is not from the persons of two aliens. Obviously, neither of these aliens has the right to be registered as a voter in New Mexico, but you state that you can find no authority in the registration law for either the district attorney or the county clerk to cancel their registrations. In view of this, you request our opinion as to the proper procedure to follow in order to cancel such unlawful registrations.

In view of the question propounded, your attention is directed to Section 30 and 31 of Chapter 152, Session Laws of 1939. These sections of the law set forth in detail the proper procedure to be followed when the registration {\*200} of a person who is not a qualified elector is sought to be canceled. Briefly, under the aforesaid sections, a petition may be filed in the district court by the county chairman of either of the dominant political parties, making the necessary allegations as therein set forth, and requesting that the district court cancel such registrations. If, after a hearing as therein provided, the court finds that the registration of any of the persons named in such petition should be canceled, the court is authorized to enter an order directing the county clerk to cancel such registration and place the same in the file of "Canceled affidavits of Registration."

In view of the foregoing, it is my opinion that the district attorney does not have any authority to cancel a certificate of registration, and the county clerk may only do so when ordered by the district court.

Trusting that the foregoing sufficiently answers your inquiry, I am