

Opinion No. 44-4607

October 30, 1944

BY: C. C. McCULLOH, Attorney General

TO: Mr. D. A. Paddock, Assistant District Attorney, Clayton, New Mexico

You have requested by telephone an opinion concerning a person who is registered in one precinct and is residing in another precinct. In view of such a situation, you request an official opinion of this office concerning the eligibility of such person to vote.

Residence is largely a matter of intention. Under our Constitution, it is required that a person be a resident of the precinct in which he offers to vote 30 days prior to such election. See Article 7, Section 1 of the N.M. Constitution. Therefore, if the person referred to left the precinct in which he is registered, with the intention of making another precinct his home, he will not be eligible to vote in either the precinct where he is registered, or the precinct of his newly acquired residence because, in such precinct, he is not a registered elector.

On the other hand, a person may reside in one precinct with the intention of continuing his residence in the same precinct in which he formerly resided, and consider the change of residence merely a temporary change, and intend to return to the first precinct. The fact that the registration is not changed would be consistent with an intention to keep a permanent residence in the precinct wherein he is registered.

We regret that it is impossible for us to give you a definite opinion concerning the particular case involved. However, since the question turns upon the fact question of intention that we are unadvised about, we can only state the applicable rules of law.

Trusting that the foregoing sufficiently answers your inquiry, I am

By HARRY L. BIGBEE,

Asst. Atty. General