

Opinion No. 21-2937

April 28, 1921

BY: A. M. EDWARDS, Assistant Attorney General

TO: Hon. Manuel Martinez, Secretary of State, Santa Fe, New Mexico.

Validity of Official Acts of Lieutenant Governor.

OPINION

{*49} This office is in receipt of your letter of April 25th, raising the question as to whether the commission signed by Lieutenant Governor {*50} Duckworth in the absence of Governor Mechem from the state, which was apparently signed by him at his home in Clovis, while the record shows "Done at the Executive Office," is valid?

Section 1 of Article V of the Constitution provides,

"The officers of the executive department, except the lieutenant governor, shall, during their terms of office, reside and keep the public records, books, papers and seals of office at the seat of government."

From the wording of the foregoing, it appears that the Lieutenant Governor is not required either to reside or to keep the public records at the seat of government. It was probably the intention of the framers of the Constitution to limit this provision to the residence of the Lieutenant Governor.

Aside from this, if the records of the acts of the Lieutenant Governor do not show that such acts were performed at the executive office, the presumption would be that they were performed there, and it is doubtful if any such act could be successfully attacked as to its validity, even if the physical fact was that the act had been performed by the Lieutenant Governor away from the executive office. Where the record shows that the act was done at the executive office, the courts would probably consider the record conclusive, if the act were attacked on that ground.