

Opinion No. 41-3727

February 21, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Frank Heimann County Clerk Harding County Mosquero, New Mexico

{*39} By letter dated February 19, 1941, your district attorney has requested an opinion by this office as to whether or not you as county clerk may appoint a person under the age of twenty-one years to the position of deputy county clerk.

Article VII, Section 2 of the New Mexico Constitution provides that "Every citizen of the United States who is a legal resident of the state and is **a qualified elector** herein shall be qualified to hold any public office in the state * * *".

Sections 96-101 to 96-106, New Mexico Statutes, Annotated, 1929 Compilation, provide that clerks and appointees to public offices must have been bona fide residents of the state for two years, and must not have been convicted of a felonious or infamous crime.

Deputy county clerks are public officers (46 C. J. 1062). The general rule seems to be that deputy county clerks must have obtained their majority (46 C. J. {*40} 939).

In view of the foregoing, I am of the opinion that a deputy county clerk is a public officer and must be a duly qualified elector (i. e. twenty-one-years of age) before he can be appointed to such office.

By GEO. H. HUNKER, Jr.

Asst. Atty. Gen.