

Opinion No. 41-3817

June 17, 1941

BY: EDWARD P. CHASE, Attorney General

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

{*69} This will acknowledge receipt of your letter of June 16 wherein you propound the following question and ask for an opinion on the same. I quote from your letter:

"May a person who only recently moved to New Mexico and who will have been a resident of the State one year at the time of the next primary election, but who will not have been a resident for one year at the time of the next city election of the city {*70} of Albuquerque, register at this time. This question naturally assumes that the proposed registrant resides within the city limits. Would it make any difference if said registrant lived outside of the city limits and was thus disqualified from voting in a city election?"

Chapter 152 of the Session Laws of 1939 sets forth the procedure to be followed in the registration of electors. The word "election" is by this Act "construed to mean and apply to all primary elections, general elections, special elections and **municipal elections.**"

The form of the affidavit of registration which is to be used is set forth under Section 3 of the said Act and a portion of that form reads as follows, to-wit:

"* * * I will be at least twenty-one years of age at the time of the next succeeding election, a citizen of the United States, a resident of the State one year * * *."

The question now arises, in view of the definition the Act gives to the word "election", do the words "next succeeding election", as used in said registration form, prohibit any person from registering who may not be a qualified elector to vote in a municipal election by virtue of his not having been a resident of the state for one year at the time of said municipal election, but who will have been a resident of the state for one year prior to the time of the next primary or general election?

In view of the language of the statute, and particularly the definition of the word "election", I am of the opinion that a person, who resides within the limits of a municipality, is not entitled to be registered, if he has not been within the state a year, as set forth in the above hypothetical question, for the reason that a municipal election is, so far as he is concerned, the "next succeeding election" as defined by statute.

In that the word "election" is construed to mean primary elections as well as municipal elections, the person referred to in the hypothetical question would be entitled to be registered if he lived out of the municipality, provided of course, in addition to having been a resident of the state for one year, he is otherwise qualified as provided by law, and the primary election is the "next succeeding election" in the county.

Trusting that the foregoing sufficiently answers your inquiry, I am

By HOWARD F. HOUK,

Asst. Atty. General