

OPINION
44-53

June 16, 1944 (OPINION)

ELECTORS

RE: Qualifications

This will acknowledge receipt of your letter of June 12, 1944 regarding the qualifications of voters. You have cited the case of a family who formerly resided in North Dakota but moved across the line over one year ago. You want the exact status of this family with respect to the right to vote and act as judge of the election in North Dakota on June twenty-seventh. In reply, I wish to state that Section 948 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 provides as follows:

"Every person of the age of twenty-one years or upwards, belonging to either of the following classes who shall have resided in the state one year and in the county ninety days and in the precinct thirty days next preceding any election shall be a qualified elector at such election. First, citizens of the United States; second, civilized persons of Indian descent who have severed their tribal relation two years next preceding such election; provided, that where a qualified elector moves from one precinct to another within the state, he shall be entitled to vote in the precinct from which he moves, until he establishes his residence in the precinct to which he moves."

Every voter is entitled to vote in the precinct from which he moves until he establishes his residence in a new place. I might say that the question of voting residence is largely a question of the intention of the voter. A voter may live in the state of South Dakota and still retain all of his voting privileges and other rights of citizenship in the State of North Dakota. Subsection 3 of Section 14 of the Compiled Laws of North Dakota provides that a legal residence cannot be lost by an individual until he has gained another residence. Unless the parties you referred to in your letter moved to South Dakota with the intention of residing there and voting in that state, they can still retain their voting residence in the state of North Dakota. This would hold true even though this family lived out of the state for any given number of years. If this family intends to retain North Dakota as their residence for voting, I cannot see but what the members of the family are eligible to act as election officials. However, I think it would be much wiser to appoint the election officials from those voters who actually reside in the State of North Dakota in the election precinct in which the officials are to serve.

ALVIN C. STRUTZ
Attorney General