

APRIL 24, 1957

MR. THOMAS KOCLAS, *Secretary*
Morris County Board of Elections
 Hall of Records
 Morristown, New Jersey

MEMORANDUM OPINION—P-14

DEAR MR. KOCLAS:

You have asked for a ruling as to the voting status of the wife of a military serviceman, who travels with her husband, under certain facts: (1) the wife has been a resident of Morris County but no longer maintains a residence there, and (2) the couple owns a dwelling house in Morris County which is rented.

The qualifications for voting in the State of New Jersey are fixed in Art. II, par. 3 of the State Constitution. Citizenship, attainment of age 21 and residence within the State for one year and within the county for five months are the constitutional prerequisites. As construed by the Supreme Court in *State v. Benny*, 20 N.J. 238 (1955) residence under Art. II, par. 3 connotes domicile or the true, fixed, permanent home to which a person, whenever absent, intends to return. Residence in fact and the intention to establish a permanent home are the two elements of domicile. *State v. Benny, supra*.

The wives of military service personnel who are not residents in fact of Morris County are not eligible to vote in Morris County. Property ownership is not a qualification for voting in this State; the ownership of a dwelling house which is rented is therefore immaterial to the issue of the eligibility of the owner to vote. Only domiciliaries with residence in fact within the State and county are qualified to vote.

We therefore advise you that under the stated facts, the wives of military service personnel, who have abandoned their residences in Morris County, may not register or vote in Morris County and their names should be removed from the registration lists.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: DAVID D. FURMAN
Deputy Attorney General

f;p

APRIL 24, 1957

HONORABLE FREDERICK J. GASSERT, JR.
Director of Motor Vehicles
 State House
 Trenton, New Jersey

MEMORANDUM OPINION—P-15

DEAR DIRECTOR GASSERT:

You have requested our opinion concerning the applicability of R.S. 39:3-31, providing for the issuance of duplicate registration certificates and driver's licenses upon