

## Opinion No. 54-5925

March 29, 1954

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mrs. Beatrice B. Roach Secretary of State Santa Fe, New Mexico

{\*371} We are in receipt of your letter concerning Chapter 157 of the 1951 New Mexico Session Laws concerning the registration of members of subversive organizations and specifically Communist organizations or Communist affiliates.

This Act requires that any organization or person who is an:

". . . affiliate of the communist party or supporter or advocate of communistic doctrine, or any person or organization which believes in, teaches or advocates the overthrow of the government of the United States or of the State of New Mexico by force or by any illegal or unconstitutional method or means shall register with the Secretary of State of New Mexico."

It further provides that you shall furnish forms as you may decide to any such person suspected of being a Communist or to any organization advocating the Communist doctrine.

Section 3 of that Act provides:

"That the officers of any organization, association, party or group which shall fail to register under the provisions of this Act, or any person who shall knowingly fail to comply with the provisions of this act, shall be guilty of a felony and on conviction thereof shall be punished by a fine of not less than five hundred dollars (\$ 500) nor more than five thousand dollars {\*372} (\$ 5,000), or by imprisonment for not less than three (3) years nor more than ten (10) years, or by both such fine and imprisonment."

This Act quite obviously contemplates that your office shall be merely the office of registration of such persons and organizations and you have no specific duty to enforce the registration of such persons and organizations. The obligation to require the persons defined in this Act to register and to prosecute them for failure so to do would lie with the law enforcement authorities of the various districts in which those persons resided and with all law enforcement officials of this State.

Of course, if it should become apparent to you as a citizen that a person is in violation of this Section, a complaint should be sworn out in the district in which he resides and that person should be prosecuted upon that complaint. However, we do not feel that your obligation is any more direct than that of any private citizen in regard to the registration of subversives other than the requirement that you furnish forms and do the physical act of registering those persons.

We sincerely hope that this answers your inquiry.

By: Fred M. Standley

Assist. Attorney General