

Opinion No. 57-303

November 25, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Hilton A. Dickson, Jr.,
Assistant Attorney General

TO: Natalie Smith Buck, Secretary of State, Santa Fe, New Mexico

QUESTION

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Can the office of Secretary of State be held permanently responsible or accountable for the permanent registration files and binders furnished to the several counties by this agency pursuant to the provisions of Article 2, Chapter 3, NMSA, 1953 Compilation, specifically including Section 3-2-41?

CONCLUSION

No.

OPINION

ANALYSIS

Supplies and equipment as required in carrying out the provisions of registration act are provided for in § 3-2-41:

"All forms, blanks, records, files or other equipment necessary for the carrying out of this act shall be prescribed and furnished by the secretary of state, by and with the consent and approval of the state board of finance, provided, that nothing contained therein shall be contrary to any specific provision of this act.

The secretary of state shall furnish to the county clerk of each county a sufficient number of all such blanks, forms and records printed in the English language and such number printed in the Spanish language as shall be necessary for each county and shall furnish a set of instructions to each registration officer. All such supplies shall be delivered to the registration officers by the county clerk".

Looking to the title of the Act, of which the aforequoted section is a part, the following language is pertinent:

"AN ACT RELATING TO REGISTRATION FOR ELECTIONS, REGISTRATION SUPPLIES, THE CONDUCT OF ELECTIONS, . . ."

From the nature of the supplies required and further from the use made thereof by local registration officials, it becomes apparent that accountability extends no further than may be reasonably required for expendable property.

As a provision of the 1939 law, Chapter 152, Section 45, there was established the "Registration Supply and Equipment Fund" and appropriated therefore a sum of Thirty Five Thousand Dollars. Such funds were to be disbursed upon requisitions from the Secretary of State, who in turn was acting upon requests from the several county clerks. No provision is found whereby the Secretary of State's office is held responsible for physical use or disposition of the considered supplies after the same have been furnished the counties.

Accordingly, it is our opinion, that the office of Secretary of State is accountable for permanent registration files and binders only to the extent of keeping accurate records of purchases of such supplies and subsequent deliveries thereof to local registration officials. Detailed responsibility for the use and disposition of all classes of supplies contemplated by the registration act falls upon local county officials.