

Opinion No. 62-149

December 26, 1962

BY: OPINION OF EARL E. HARTLEY, Attorney General J. E. Gallegos, Assistant Attorney General

TO: Mrs. Betty Fiorina, Secretary of State, Santa Fe, New Mexico

QUESTION

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Is the second sentence of the first paragraph of the Thirteenth Amendment to the New Mexico Constitution self-executing?

CONCLUSION

Yes.

OPINION

ANALYSIS

At the last general election the voters of New Mexico adopted Constitutional Amendment No. 13. The second sentence of the first paragraph of that amendment provides:

"The governor and lieutenant governor shall be elected jointly by the casting by each voter of a single vote applicable to both offices."

The Secretary of State wants to know if she should comply with the amendment by having the two candidates placed on the ballots and voting machines under a single designation or if she must wait for the legislature to implement the amendment. In other words, is the amendment self-executing?

The wording in question expresses a definite rule and is sufficient in itself to control the subject it pertains to. It is manifest that the amendment is to have immediate effect and have no reliance on ancillary enactments. This being so, the provision is self-executing. **State ex rel Noble v. Fiorina**, 67 N.M. 366, 355 P. 2d 497; **State v. Rogers**, 31 N.M. 485 247 P. 828; **Delgado v. Romero**, 17 N.M. 81, 124 P. 699.

Although a self-executing constitutional provision has full force on its own, the legislature may protect or further it through supplementary legislation. **Delgado v. Romero**, supra. **Todd & Tilton Banks v. Frawley**, 98 Or. 241, 193 P. 916; **16 C.J.S.** "Constitutional Law" p. 144. That is to say, a legislature may supply details relative to

the constitutional provision. The New Mexico Legislature may see fit to do so in this case. But the legislation must support the amendment and not narrow it. **State ex rel City of Fulton v. Smith**, 353 Mo. 27, 194 S.W. 2d 304.

Having concluded that the questioned portion of the Thirteenth Amendment is self-executing, it is our opinion that the Secretary of State should comply with it in all ways available to her.