

Opinion No. 66-17

February 2, 1966

BY: OPINION OF BOSTON E. WITT, Attorney General Oliver E. Payne, Deputy Attorney General

TO: Mr. Richard H. Folmar, Assistant Director, New Mexico Legislative Council, Room 201, State Capitol, Santa Fe, New Mexico

QUESTION

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Under the provisions of the law for the selection of delegates to the Democratic pre-primary nominating convention, are county chairmen and precinct chairmen entitled because of their positions to become delegates?

CONCLUSION

No.

OPINION

{*21} ANALYSIS

In answering your question we turn first to the Primary Election Code (Section 3-11-1 through 3-11-35, N.M.S.A., 1953 Compilation (P.S.)).

Section 3-11-14, *supra*, provides that ". . . delegates to such conventions of political parties shall be selected as specified by the rules and regulations, promulgated in accordance with section 26 hereof (Section 3-11-26), of the respective political parties as now provided for the holding of conventions. . . ."

Section 3-11-26, *supra*, referred to in Section 3-11-4, *supra*, requires the filing of party rules and regulations and states that ". . . such rules and regulations may provide any procedure the party desires," with certain exceptions not here pertinent.

We have carefully examined the rules and regulations of the Democratic party as adopted by the Democratic State Central Committee on September 13, 1965.

Section 1 of Article III provides that each county is entitled to one delegate vote for each 100 votes, or major fraction thereof, cast for the Democratic candidate for governor in the county at the last preceding general election.

Section 5 of Article III sets forth the procedures for the conduct of precinct conventions and election of delegates to the county convention. Section 6 of Article III sets forth the procedures for the conduct of county conventions and election of delegates to the State pre-primary convention. Paragraph (d) of this section provides that " **All delegates** to a state convention **shall be elected by a majority of the delegates participating in the** county conventions for that purpose." This paragraph states that "The delegates **so elected shall** represent the Democratic Party of a respective county in said Democratic Convention."

Nowhere in the New Mexico statutes or in the rules and regulations of the Democratic party is it provided that county chairmen and precinct chairmen automatically become delegates by virtue of their positions. In order to be delegates they must be elected in the same manner that other delegates are elected.