

Opinion No. 20-2522

March 20, 1920

BY: N. D. MEYER, Assistant Attorney General

TO: A. E. Green, Chairman, Republican Central Committee, Socorro, New Mexico.

Filing of List of Candidates for Municipal Offices.

OPINION

We have your letter of March 15th in which you ask for the opinion of this office as to whether or not the list of candidates in a municipal election should be filed with the county clerk, and in answer beg to advise as follows:

Section 1995 of the Code provides that when any political convention held in this state or in any county thereof for the purpose of nominating candidates to be voted on, desires to have the names of the nominees placed upon the ballot, that the presiding officer and secretary of said convention shall certify and file with the county clerk of the county in which such convention is held, the list of names of the said nominees.

Section 3591 states that the trustees or council of any municipal corporation shall appoint the judges and clerks of municipal elections and direct the place or places for holding such elections for municipal officers; also, that all elections for municipal officers shall be in all respects held and conducted in the manner prescribed by law in cases of county elections.

Chapter 89 of the Session Laws of 1917 further provides that it shall be the duty of the city clerk in municipal elections to provide printed ballots for every election for public officers, and to cause to be printed on the ballot the name of every candidate whose name has been certified and filed; that the expenses incurred shall be borne by the municipality and that the clerk shall deliver to the election judges the said printed ballots.

There is no special provision stating that in municipal elections the list of candidates should be filed with the board of trustees or council, but it would appear from the above provisions of law imposing said duties on city clerks, that it was the intent of the legislature to have the municipal officers perform all the duties in connection with municipal elections, which, by the general law, devolve upon the county officials. Therefore, I am of the opinion that the list of candidates provided to be filed with the county clerk by virtue of Section 1995, should be filed with a city clerk, and that all the duties which devolve upon the county officials under Sections 1995, 1997 and Chapter 89 of the Session Laws of 1917, should be performed by the city council.

I can see no harm in filing the list of candidates with both the city clerk and the county clerk, and in order to be sure that no technicality should arise which would invalidate the election, I would suggest that the list be filed with both the city clerk and the county clerk.

Trusting that the foregoing will answer your question, I beg to remain,