

OPINION  
67-159

November 22, 1967 (OPINION)

Mr. Thomas L. Secrest

State Chairman

Republican National Committee

RE: Political Parties - State Committee - District Chairmen

This is in response to your letter in which you state the following:

"A question has arisen as to what persons comprise the State Committee of the North Dakota political party as designated by chapter 16-17 as amended. More specifically, what positions or authority do those persons have who were designated as District Chairmen as the result of the reorganization meetings which were held pursuant to section 16-17-10.1 which were to have been held on or before the second Tuesday of November, 1967."

As to the composition of the State Committee, we must recognize and take into consideration some of the amendments to the statutory provisions of chapter 16-17 of the North Dakota Century Code, section 16-17-11, as amended by chapter 158 of the 1967 Session Laws, now provides as follows:

STATE COMMITTEE - MEMBERSHIP. The state committee of each party shall consist of the chairman of each of the district committees of such party."

This amendment did not contain an emergency clause nor did it contain any specific provision as to when it would go into effect. Consequently, pursuant to section 67 of the North Dakota Constitution, the amendments went into effect on July 1, 1967. Prior to the amendments by chapter 158 of the 1967 Session Laws, the State Committee was known as the State Central Committee and consisted of delegates selected by the County Committee.

We must also be mindful of the fact that prior to the amendments, representation on the State Committee was on a county basis rather than on a legislative district basis, as is now pursuant to section 16-17-11, as amended. This change can be attributed to the United States Supreme Court's "one man, one vote" decision which resulted in a complete rearrangement of legislative districts in the state with little regard for county lines. The net effect is that the counties and legislative districts generally do not embrace the same geographic areas. To implement the changeover the legislature enacted section 16-17-10.1, which, by taking into account the amendments adopted and appearing in the journal, provides as follows:

POLITICAL PARTIES TO ORGANIZE ON DISTRICT BASIS. Legally recognized political parties shall organize on a legislative district basis not later than the second Tuesday in November in the year 1967 and thereafter as provided by law. The manner of

organizing shall substantially follow the provisions of chapter 16-17 of the North Dakota Century Code."

It is observed that the organization of the County Committee shall be accomplished not later than the second Tuesday in November of 1967. The District Committee consists of the precinct committeemen, the nominees for and members of the legislative assembly within the district as provided for in section 16-17-09, as amended.

From the foregoing, it becomes obvious that the composition of the party organization is on a district rather than a county basis. It is also obvious that the new structure of the political parties rests on different geographical areas. In addition this the composition of the State Committee is made up of the various district chairmen and not of delegates from the county as was the case heretofore. The apparent purposes and objectives for the change was to harmonize and correlate political party organization on the same basis as legislative representation.

Because the legislature specifically provided that the reorganization was to be accomplished not later than the second Tuesday in November, we must conclude that the results of such reorganization become effective upon accomplishment. Had the legislature intended that the effects of the reorganization be delayed until some future date, it could easily have provided so. It is a recognized rule of law which presumes that the legislature does not perform an idle act, consequently the enactment of section 16-17-10.1 must be given full recognition and import.

On the basis of the foregoing we are compelled to the conclusion that the present State Committee consists of the various district chairmen selected pursuant to the provisions of section 16-17-10.1 on or before the second Tuesday in November, 1967. To conclude otherwise would be disregarding practically all of the acts adopted by chapter 158 of the 1967 Session Laws. The official standing of the county organization has passed out of existence.

We must also advise that under the provisions of section 16-17-13, proxies may be used and in instances where a proxy appears for the chairman the proxy is entitled to the official vote to which the chairman would have been entitled had he been present. The delegates to the State Central Committee selected under previous statutory provisions are not entitled to a vote on matters considered by the State Committee. This, however, does not imply that such delegates may not be present at the meeting nor does it mean that their advice and counsel should not be sought. In fact, it might be deemed advisable or desirable to do so.

We should also call to your attention that section 16-17-15, as amended, merely provides that within the forty-five (45) days after the general election, the committee shall meet and organize by electing the following officers: chairman, vice-chairman, secretary and treasurer. it further provides that such officers need not be members of a State Committee. However, no statement or comment is to be construed as applying to internal affairs of the parties.

HELGI JOHANNESON

Attorney General