

**OPINION
58-103**

**ELECTIONS - PARTY COMMITTEE ORGANIZATION - STATE CENTRAL COMMITTEE
- EXECUTIVE COMMITTEE, MEMBERS**

Your letter of August 21, 1958, has been received, and you state that at the recent state committee meeting of the Democratic Party an executive committee of twenty persons was elected by the state committeemen present. You also advise that a number of those elected were not members of the state committee, and the question has now been raised as to whether only state committee men can be elected to the executive committee for the reason that the executive committee merely acts for the full committee during the interim. You ask our opinion upon this subject.

Section 16-1716 of the North Dakota Revised Code of 1943 is the section which deals with the meetings and organization of the state central committee. This section reads as follows:

“STATE CENTRAL COMMITTEE: MEETINGS OR; ORGANIZATION; VACANCIES. Members elected as state central committeemen shall meet on the second Wednesday in August following the primary election. Such meeting shall be held at the state capitol and shall convene at ten o'clock a.m. Such committeemen shall organization by selecting a chairman, a vice chairman, a secretary, and a treasurer and by adopting rules and modes of procedure. The officers elected need not be members of such committee. A vacancy on the state central committee shall be filled by a majority of the state central committee by appointment from the legislative district in which the vacancy exists.”

About the only case on this subject that we can find in the books is the State of North Dakota ex rel. D. H. McArthur v. Fred McLean, Joseph M. Kelly, and the State Central Committee of the Democratic Part in the State of North Dakota. This case is found in 35 N.D. 203, 159 N.W. 847. In that case it was held, among other things, that it was not necessary that the chairman of the committee be a member of the committee. While the court in this case did not pass on the qualifications for the membership on the executive committee it did say that it was its assumption that the legislature did not make this requirement. The courts have held that a director of a corporation is merely an agent, and, being such, in the absence of an express authority or charter requirement, need not be a stockholder. The same reasoning may be applied to the executive committee of a political party.

it is to be noted that the statute does not require that the executive committee of the county committee of the party must be chosen from the county committee. No such requirement is made upon the state committee. In the early Code these two sections were included in one. Thus, our conclusion is that if the legislature had intended to make

membership of the state committee a necessary qualification for membership on the executive committee it would have so declared. The omission of any such provision leads us to believe that the legislature did not intend this requirement.

It is, therefore, the opinion of this office that it is not necessary that the members of the executive committee on the Democratic State Central Committee must also be member of the state committee.