

Opinion No. 55-6331

December 1, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mrs. Natalie Smith Buck, Secretary of State State Capitol, Santa Fe, New Mexico

In your letter of November 29, 1955, you ask for the opinion of this office on the question:

In local option elections authorized by § 46-3-1, N.M.S.A., 1953, must the county clerks furnish alphabetical lists of registrants to the Secretary of State and to respective party chairmen within the county as required before a primary or general election by § 3-2-30, N.M.S.A., 1953?

Section 46-3-1 is the statute which authorizes local option elections in connection with the sale of liquors. Section 46-3-1 (c) provides that:

"Such elections shall be conducted in the manner provided by law for general elections within said county or city, except as herein provided."

Section 3-2-30 is part of the General Election Code and provides substantially that the county clerk shall, not more than twenty, nor less than ten days, before any "general or primary" election, furnish the Secretary of State and the chairmen of the two dominant political parties an alphabetical list of the registered voters in each election district in the county, showing their party affiliations and addresses.

This office has previously ruled that § 3-2-30 does not apply to municipal elections, Attorney General's Opinions 1939-40, page 136, or special elections on constitutional amendments, Attorney General's Opinions 1949, No. 5228, 1951-52, No. 5403. The reasons for these rulings are obvious. In a special and nonpartisan election, the furnishing of such lists to the Secretary of State and the chairmen of the dominant political parties is neither practical nor necessary. Thus, we believe that the Legislature, in framing § 3-2-30, contemplated applicability only to those elections specifically named in the body of the statute, to-wit, general or primary elections.

The reference in § 46-3-1 (c), stating that the conduct of local option elections shall be the same as that in general elections, does not necessarily include each and every provision of our General Election Code. This has been held by our Supreme Court although in connection with a different provision than that in question here. *State v. Vinyard*, 55 N.M. 205.

Your question is, therefore, answered in the negative.

By Santiago E. Campos

Assistant Attorney General