

**Opinion No. 20-2720**

October 23, 1920

**BY:** N. D. MEYER, Assistant Attorney General

**TO:** Mr. H. B. Jameson, Attorney at Law, Albuquerque, New Mexico.

Political Complexion Election Judges.

**OPINION**

This office is in receipt of your letter of recent date asking if it is not the opinion of this office that under the provisions of Section 1980, it is incumbent upon the Board of County Commissioners of Bernalillo county who were **elected as Republicans**, to select two Republicans and one Democrat as judges of election.

In this connection, I beg leave to quote to you that part of the statute directly applicable to this proposition, which is as follows:

". . . from which list so filed, the Board of County Commissioners shall have the right, and it shall be its duty, to select the election judges for each of such precincts, and where two or more of said Commissioners belong to the same political party, they shall have the right to select two of said judges for each precinct from the list of names submitted by the County Chairman representing their political party, and the remaining judge shall be selected from the list submitted by the County Chairman representing the opposite political party . . ."

The above language is too clear to demand any construction of the same at my hands. As I view it, the political belief of the Board of County Commissioners at the time that the appointment of the judges is made governs them in the appointment of judges, and not their belief at the time of election.

In view of what I think the law is on this subject, I am compelled to express an opinion contrary to the views contained in your letter. However, if you wish to present this matter to the court for decision by mandamus proceedings, I am sure that this office has no objection and is pleased to grant you permission to institute proceedings. Accordingly we have prepared a form of consent which has been duly signed and is enclosed to you herewith.

We do not deem it necessary nor advisable to authorize the Relator to use the names of any of the members of this office in connection with these proceedings. The only thing necessary for us to do is to consent that the action may be instituted in the name of the state on the relation of Mr. Barber.