**Nominations — Candidates —Vacancies — County Central Committees.**

A candidate receiving the nomination by having his name written in on the ballot at his solicitation is a candidate nominated within the meaning of chapter 98, laws of 1927.

September 17, 1928.

R. M. Hattersley, Esq.,
County Attorney,
Conrad, Montana.

My dear Mr. Hattersley:

You have requested my opinion regarding the power of county central committees to fill vacancies.

Heretofore I have understood that the persons whose names were written in on the ballot were not voluntary candidates and that they did not participate in the canvassing of votes. I understand, however, from your last letter that these persons openly solicited the nomination. Under such circumstances I believe they are candidates within the meaning of chapter 98, laws of 1927, which empowers the committees "to make nominations to fill vacancies occurring among the candidates of their respective parties nominated for city or county offices."

By chapter 125, laws of 1927, it is provided:

> "Any person receiving the nomination by having his name written in on the primary ballot, and desiring to accept such nomination, shall file with the secretary of state, county clerk, or city clerk, a written declaration indicating his acceptance of said nomination within ten (10) days after the election at which he receives such nomination, and at the same time he shall pay to the officer with whom such declaration of acceptance is filed the fee above provided for filing a primary nominating petition for such office."

A somewhat similar clause appears in chapter 14 of the laws of 1927. It is apparent that the legislature contemplated that a person who had received the highest number of votes receives the "nomination" and that the nomination is separate and distinct from the declaration accepting the nomination. Hence, it is my opinion that where persons have their

names written in on a ballot at their solicitation and when they receive the highest number of votes of any candidate on the ticket for that office they are nominated, and hence are candidates nominated for office within the meaning of chapter 98 and that in case they fail to accept the nomination that the committees have the power to fill the vacancies.

Very truly yours,

L. A. FOOT,
Attorney General.