

Primary Elections, Change in Number of Precincts. Electors, Percentage of on Petition. Petition, Signatures Required on. County Clerk, Duty of. Official Ballot, Duty of County Clerk.

Signatures of petitions must be procured from precincts as they existed at the last general election, without regard to changes since made, and at least two per cent of the party vote for Congress in the county at the preceding general election is necessary. In each precinct in which signatures are obtained, a separate leaf or sheet is necessary, to be circulated, signed and verified according to law. A candidate must sign his petition, but need not verify same. There must be a separate page for each political party.

May 27, 1914.

Hon. J. J. McCaffery,
County Attorney,
Butte, Montana.

Dear Sir:

I am in receipt of your request for an opinion upon certain matters pertaining to the primary election laws. You set forth that Section 10 of the Act refers to the measures or principles a candidate advocates, which are to be printed in twelve words; that Section 14 refers to the words a candidate wishes to be on the ballot, and you inquire whether it is the duty of the county clerk to brief the one hundred words allowed on the petition, or whether it is the duty of the petitioner to say what words will be printed after his name on the primary ballot. You also set forth that the precincts of Silver Bow county have been changed from forty-six precincts at the last general election to sixty-eight at the present time, and you ask whether the necessary one-fifth of the signers of petitions must be obtained from the old or the new precincts, and whether it is necessary to secure two per cent of the vote cast in each precinct or two per cent of the total vote cast in the county. You also inquire whether, under Section 10 of the law, if it is necessary that each and every leaf and page of signatures have the heading as set forth in the section, and whether a candidate may sign his own petition and verify the same. You also refer to the form of ballot to be used at a primary nominating election, and inquire whether it is possible to use more than one column of the official ballot.

Taking up these propositions in the order in which you present them, I will say that it is not the duty of the county clerk to brief any statement setting forth the measures or principles which a candidate especially advocates, nor has the county clerk and recorder anything to do with the form in which this matter is to be printed upon the nominating ballot in not exceeding twelve words. The right is given to the candidate to set forth in his nominating petition the declaration of principles or measures he especially advocates, and the candidate himself must prepare the form in which he desires such declaration of

measures or principles to be printed after his name on the nominating ballot, which he may do in not exceeding twelve words. The rights thus conferred may be exercised or not, in the candidate's discretion, and if he fails to do so, the county clerk and recorder is not privileged to do so in the candidate's behalf.

Under the law, the vote cast by a political party in each voting precinct for representative in congress at the last preceding general election shall be the basis on which the percentage for petitions shall be counted. Hence, a candidate for office in Silver Bow county is required to secure signatures of electors to his petition from one-fifth of the precincts, as they existed at the time of the last general election, and it is wholly immaterial that at the next general election there will be a larger number or a different number of precincts than at the preceding general election. The number of signers required shall equal two per cent of the party vote in the county, but no petition need be signed by more than five hundred qualified electors for a county office. The law is silent as to the number of signers necessary to be obtained in the precincts in which the petition is circulated, but I am of the opinion that at least two per cent of the party vote should be obtained in each precinct where a petition is circulated, and as indicated, to render the petition valid, it must contain signatures equaling at least two per cent of the total party vote in the county.

Section 10 of the law provides that each and every leaf or sheet of a nominating petition containing signatures shall be verified in substantially the form set forth in the Section, and the same section provides that there shall be a separate leaf or sheet signed as provided by the section, on every nominating petition for each precinct in which it is circulated. This part of the law has reference to the candidate's petition, and after the above and on a separate sheet or sheets, there shall appear the petition to be signed by the electors. In view of these provisions, it appears to me to be plain that it is essential that every leaf or page of signatures shall contain not only a copy of the petition to be signed by the electors, but also an affidavit in due form to be sworn to by one person acquainted with all of the persons who have signed the sheet upon which it appears.

The law provides that any qualified elector who has filed his petition shall have his name printed on the official ballot of his party, as a candidate for nomination,—if there shall be filed in his behalf a petition signed as required by the law. It is required that the candidate sign his own petition, but it is not necessary that he verify the same. I believe that it is not the intention of the law that a candidate may also sign that part of his petition which is required to be signed by electors in his behalf. Hence, it would not be proper for the candidate to verify the signatures, for this must be done by one or more of the electors signing the candidate's petition.

There must be a separate ballot for each political party represented at the primary nominating election, and only the names of the candidates of a single political party may appear on any ballot, and the ballot shall be printed in substantially the form of the Australian

oallot used in general elections. For each office, the candidates' names shall be arranged alphabetically according to surnames. To do this as many columns as are necessary may be used on the official ballot.

Yours very truly,

D. M. KELLY,
Attorney General.