

Ballot, Primary Election, Ballot of. Election, Primary, Official Ballot, What Constitutes. Contract, Printing Ballot, What Is.

In Primary Election Law, the term "official ballot" is used both as applying to all of the party tickets when combined, and to each party ticket regarded separately.

The term "official ballot" without qualifying words means an aggregate of all of the party tickets.

In contract for printing "official ballots," the facts must determine whether each party ticket was regarded as a ballot or whether the term "official ballot" was taken to mean the aggregate of all the party tickets.

October 6, 1914.

Hon. Paul Babcock,
County Attorney,
Plentywood, Montana.

Dear Sir:

I am in receipt of your letter of the 25th ultimo, submitting the question:

“as to what is meant by the term ‘ballot,’ as used in Section 20 of the Primary Law?”

It appears that a contract was entered into with the printer there to print the “official ballot.” The question now arises as to whether the “official ballot” consists of all the party tickets in the aggregate, or whether each party ticket constitutes an official ballot. As stated in your letter, the law uses the terms interchangeably, as though they were synonymous in meaning. I take it, however, that in the absence of anything to the contrary, that for the purpose of printing, the ballot would consist of all the tickets, but that when the elector votes, only that part of the official ballot remains which he votes. Hence, that part is then called the official ballot. However, the parties may have contracted with reference to each party ticket being regarded as an official ballot, rather than with reference to all of the party tickets constituting in the aggregate one ballot. A question of fact is thus introduced as to the meeting of the minds of the parties, and in view of the apparent conflict of terms used in the law, and in order that right may prevail, irrespective of technicalities, I would suggest that the county board pass upon the question as to what they really meant at the time the contract was made, that is, whether the contract was entered into on the theory that all of the party tickets constitute one ballot, or whether each party ticket, for the purpose of the printing contract, was to be regarded as one ballot. It makes a very material difference in the printer's bill. However, that which was actually meant at the time the contract was entered into, and the proposition on which the minds of the parties met, should be regarded as the contract, and its provisions obeyed, irrespective of the amount involved. Aside from this question of fact, and rather of equity, I think you are correct in your conclusions of law. Let the county board adjudicate the matter as a question of fact and of equity.

Yours very truly,

D. M. KELLY,
Attorney General.