

- Primary Election Law, for President. Presidential Primary Election Law, Construction of. Construction, Presidential Primary Election Law. Election, Primary for President. Statute, Construction Primary Election Law.

The Presidential Primary Election Law must be read and construed in connection with the State Primary Election Law as to the method of procedure to be followed in the conduct of such election.

An elector has the right to vote for one candidate for every office to be filled, notwithstanding the statement that the elector may vote for only one of the delegates.

February 14, 1916.

Hon. George A. Judson,
County Attorney,
Great Falls, Montana.

Dear Sir:

I am in receipt of your letter submitting for the consideration of this department, certain questions relating to the Presidential Primary Election Law. This law is within itself very incomplete and uncertain, but from its provisions, as expressed in Section 1 thereof, it was evidently the intent that other laws pertaining to the nomination of candidates, etc., should be read in connection therewith, and in effect as a part thereof. Referring then to the law entitled:

"A Bill to propose by initiative petition a law to provide for party nominations by direct vote." (Laws of 1913, p. 570.) we may obtain the method of procedure intended to be observed in carrying into effect the law known as the "Presidential Primary Law" (Laws of 1913, p. 590). The provision found in the Presidential Primary Law, on page 591, Laws of 1913, to-wit:

"Every qualified voter shall have the right at such nominating election to vote for the election of one person and no more to the office of national delegate for his party, and to vote for the nomination of one aspirant and no more for the office of presidential elector as the candidate for his party",

can not be given literal construction, for the very evident reason that such a construction would be in effect a disfranchisement of the electors. It is fundamental that an elector under our state constitution and system of government, has a right to vote for one candidate for every office to be filled. Hence, any attempt to limit him to vote for one candidate, when eight are to be selected in the one case, or to vote for one candidate, when four are to be selected in the other case, is in contravention of these fundamental principles.

State ex rel Holiday v. O'Leary, 43 Mont., 157, and cases cited.

Hence, we conclude that the above quoted portion of this law must be taken to mean that the elector has the right to vote for only one set of candidates for delegates, and one set of candidates for presidential electors. Hence, each elector may vote for as many candidates to the office of delegate to the National Convention, as there are delegates to be elected; and he may also vote for as many candidates for the office of presidential elector as there are offices to be filled.

The opinion heretofore rendered by this department in the letter addressed to the Hon. Secretary of State on July 20, 1915, had reference only to the dates when the two primary elections would be held, and as to whether or not the two primary laws should be read together as parts of the same Bill.

Yours very truly,
J. B. POINDEXTER,
Attorney General.