

Delegates — Election — Nomination — National Conventions—President—Primaries—Vice President—Voters.

Nomination of candidates for Congressional, state, and county offices is governed by Sections 631 to 670, inclusive, of the Revised Codes of Montana of 1921, and the primary election for the nomination of candidates for these offices must be held on the seventieth day preceding the general election at which officers to fill these offices are elected.

The primary election to be held on the last Tuesday of May is for the purpose of electing delegates to the national conventions, nominating presidential electors and to obtain the expression of the voters of the various political parties of their preference of party candidates for the offices of President and Vice-President.

Miss Golda M. Ragland,
Clerk of Board of County Commissioners,
Livingston, Montana.

My dear Miss Ragland:

You have submitted to this office for my opinion the following question:

“Can Section 671 of the Revised Codes of Montana of 1921, which amends Section 1 of the law initiated and passed at the general election of 1912 relating to the holding of presidential preferential primary elections, be so construed as to permit the holding of but one election for the purpose of electing delegates to the national conventions, the nomination of presidential electors and obtaining the expression of the voters of the various parties of their preference of party candidates for President and Vice President, and for the purpose of nominating congressional, state and county officers?”

The only way in which Section 671 amended the original presidential preferential primary law was that it fixed the date of holding the primary election on the last Tuesday in May instead of on the forty-fifth day before the first Monday in June as it was fixed by the original law.

The original law was construed by the Montana Supreme Court in the case of *State ex rel. Taylor v. Duncan*, 52 Mont. 69, in which case the contention was made by the plaintiff that his name, as a candidate for the nomination to the office of Public Administrator, should be placed upon the primary ballot to be used in the presidential preferential primary election, upon the theory that state and county officers should be nominated at that election; that in years when a President and Vice-President are elected the law contemplated that only one primary election should be held for all offices. The court declined to uphold the contention of the plaintiff, holding that the nomination of candidates for state and county officers was gov-

erned by another enactment fixing a separate and later date for holding the primary nominating election for state and county offices, said enactment now being Section 632, Revised Codes of 1921.

It is, therefore, my opinion that, as no amendment to the laws relating to the holding of the primary nominating elections has been made which changes the force and effect of that decision, the nomination of candidates for congressional, state and county offices is governed by Sections 631 to 670, inclusive, of the Revised Codes of 1921, and that the primary election for the nomination of candidates for these offices must be held on the seventieth day preceding the general election at which officers to fill these offices are elected, and that the primary election to be held on the last Tuesday of May is for the purpose of electing delegates to the national conventions, nominating presidential electors and to obtain the expression of the voters of the various political parties of their preference of party candidates for the offices of President and Vice-President.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.