

Ballots—Candidates—Elections—Fees—Nominations.

It is necessary, where there is a party which has not a full ticket, to place blank squares the full length of the ticket.

One nominated as an independent candidate under the provisions of Section 615, Revised Codes of Montana, 1921, need not pay the filing fee provided by Section 640 as amended by Chapter 133, Laws of 1923.

Charles L. Tyman, Esq.,
County Attorney,
White Sulphur Springs, Montana.

My dear Mr. Tyman:

You have submitted to this office the two following questions:

“First: Is it necessary where there is another party which has not a full ticket to place a blank square the full length of the ticket, so that anyone wishing can write in a name for each and every office?”

“Second: Where a Republican candidate was defeated by the primaries and now desires to run independent, he having paid his filing fees before the primaries, will he again have to pay filing fees, running independent?”

As to your first inquiry the following considerations seem to me to control: First, Section 678 provides that any elector may write or paste on his ballot the name of any person for whom he desires to vote for **any office**. See also opinion of this office, Vol. 5, Opinions of Attorney General, page 602, citing State ex rel. Holliday v. O’Leary, 43 Mont. 157.

It should also be observed that the form of printed ballot prescribed by Section 681 contains under the designation of Labor Party no name for the office of Lieutenant Governor but **does** contain blank spaces and sections for that office.

Since it is obvious that a voter cannot well write in the name of a person "for any office" unless suitable provision is made on the ballot to enable him to do so, and since Section 681, *supra*, clearly indicates a legislative intent that this should be done, it is my opinion that your first question should be answered in the affirmative.

Second: A person nominated as an independent candidate under the provisions of Section 615, R. C. M. 1921, need not pay the filing fees provided by Section 640, as amended by Chapter 133, Laws of 1923, which latter relates only to fees for party nominations made under the direct primary law.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.