

Candidates—Ballots — Elections — Nomination—Party Designation.

One cannot be compelled to run for office against his wish or be a candidate against his will.

Section 613, Revised Codes of Montana, 1921, provides for a party designation in no more than five words.

Chas. F. Huppe, Esq.,
County Attorney,
Roundup, Montana.

My dear Mr. Huppe:

Your letter submits to this office for an opinion two questions:

1. Whether a candidate who has been regularly nominated at a primary election can decline the nomination and require the County Clerk not to print his name on the official ballot.

You state that during the primary election the Democrats wrote in the names of candidates who received the highest number of votes and according to statute became the candidates of that party for the

particular office for which they received the largest number of votes. I therefore assume that the nominations referred to were made by the writing in of the name of the nominee, the latter not having been a candidate for the office.

2. May a person, filing as an independent candidate, designate the caption to be printed at the head of the ticket?

The only provision contained in our primary law regarding the withdrawal of candidates is Section 647, R. C. M. 1921. This section expressly makes applicable the provisions of Sections 620 and 621 relating to the declining of public office only in the two cases specified, namely, upon the death of the candidate or upon his removal from the state, county or electoral district before the date of the ensuing election.

It is, therefore, my opinion that the above statutory provision applies only to such persons as were voluntarily candidates at the election and that it does not apply to a person who was nominated by having his name written in on the ballot without his ever having filed for the office in question or consented to the submission of his name as a candidate for such office.

It is further my opinion that in the case of a person who has voluntarily submitted his own candidacy to the voters of the county, the only circumstances under which he can withdraw are those specified in Section 647, supra. I do not believe, however, that a man can be compelled to run for office against his wish or be a candidate against his will. The rule above announced finds support in the decision of the Supreme Court of Colorado, reported in 99 Pac. 46.

Replying to your second question, I assume that the independent candidates to whom you refer have been nominated by certificate under the provisions of Section 615, R. C. M. 1921.

Section 613 (referred to in Section 615) provides for a party designation in no more than five words.

It is, therefore, my opinion that this party designation indicated in the certification of nomination should be placed on the ballot.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.