

**Elections—Registration—Nominations—Qualifications—
Candidates.**

It is not necessary that a person be a registered elector or a resident of the county in order to be qualified to file a nominating petition as a candidate for county office at a primary election.

June 4, 1928.

Shebel Rehal, Esq.,
Clerk and Recorder,
Chester, Montana.

My dear Mr. Rehal:

You have requested my opinion on the following question:

“May a person who is not a registered elector or resident of the county file a nominating petition for the primary election

to be held on July 17th? The person may become qualified before the general election."

An examination of the primary election law of the state (sections 631-670 R. C. M. 1921) discloses that it contains no restriction in the matter of residence upon the right of any person to become a candidate for public office.

Section 2 of article IX of the constitution of Montana provides among other things that any person of the age of twenty-one years or over shall be qualified to vote who possesses the following qualifications: (1) He shall be a citizen of the United States; (2) he shall have resided in the state one year immediately preceding the election and in the county such time as may be prescribed by law.

Section 11 of the same article prescribes the qualifications to hold office as follows:

"Any person qualified to vote at general elections and for state officers in this state shall be eligible to any office therein, except as otherwise provided in this Constitution, and subject to such additional qualifications as may be prescribed by the legislative assembly for city offices and offices hereafter created."

Section 540 R. C. M. 1921 requires that an elector must have resided in the county thirty days immediately preceding the election at which he desires to vote.

In the case of *State ex rel Lang v. Furnish, et al*, 48 Mont. 28, our supreme court held that registration is no part of the qualifications of an elector.

Applying the above statutory provisions and general principles to your inquiry, my conclusion is as follows:

It is not necessary that a person be registered as an elector in order to be qualified to file a nominating petition as a candidate for county office at the coming primaries; neither is it necessary that a person be a resident of the county at the time he files his nominating petition. A person must, of course, possess the qualifications enumerated in section 540 before he is eligible to hold public office. He must, in other words, have resided in the county for thirty days before he can take office therein. If, however, an elector who is not a resident of the county but who is otherwise qualified, desires to file a nominating petition for the coming primaries, he should, in my opinion, be permitted to do so. The form of nominating petition provided in section 641, as amended by chapter 133 of the session laws of 1923, requires only that the elector shall state his residence and postoffice address. It does not require a statement that the residence of the candidate is at the time he files his petition in the county in which he is seeking office.

Very truly yours,

L. A. FOOT,
Attorney General.