

**Opinion No. 610**

**Elections—Candidates—Withdrawal  
of Nominee—Vacancies—Title of  
Act, Sufficiency of—Statutes,  
Construction of.**

HELD: One who petitioned for the nomination for the office of state senator and afterward received it at the

primary election cannot withdraw.

The title of Chapter 6, Laws of 1933, is sufficient since the Constitution only requires that the subject of a bill shall be clearly expressed in its title.

measure is clearly expressed in the title. (*State v. Anaconda C. M. Co.*, 23 Mont. 498; *State v. Erickson*, 75 Mont. 429; 59 C. J. 804-807.)

September 13, 1934.

Your letter and a copy of the opinion which you gave the county clerk of Carter County, concerning the right of a person who petitioned for the nomination for the office of state senator and afterwards received it at the primary election held on July 17, 1934, to withdraw, are before me.

Though there is some room for doubt, I think you arrived at the correct conclusion, namely, that the candidate cannot now withdraw. Your position is supported by *State v. Hamilton*, 111 Pac. 1026, but is opposed by *Elswick v. Ratliff*, 179 S. W. 11. The Supreme Court of California in *Bordwell v. Williams*, 159 Pac. 869, mentioned both cases but did not approve the decision in either because it was not necessary. The fact that on August 28, 1930, the then Attorney General rendered an opinion to the effect that a candidate nominated under like circumstances as the candidate in question could not withdraw so as to create a vacancy, (13 Opinions of Attorney General, 278) and that the legislature which has twice met in regular session since then has apparently acquiesced in his construction of the statute (Section 641, R. C. M. 1921, as amended), should not be overlooked in this connection. (*Miller Ins. Agency v. Porter*, 93 Mont. 567; *State v. District Court*, 49 Mont. 146; 59 C. J. 1025.)

Whatever may be said of the title of Chapter 98, Laws of 1927, and the title of Chapter 34, Laws of 1929, there cannot be any doubt that the title of Chapter 6, Laws of 1933, is sufficient. The rule enunciated in your opinion to the effect that "the title of a statute must incorporate the body of the statute," is altogether too broad. Section 23 of Article V of the Constitution only requires that the subject of a bill shall be clearly expressed in its title. It is not necessary that the title shall embody the exact limitations or qualifications contained in the bill itself which are germane to the purpose of the legislature, if the general subject of the