

October 17, 1938.

Mr. I. W. Choate
County Attorney
Miles City, Montana

Dear Mr. Choate:

You have submitted the following question:

“When there are one or more independent candidates whose names must be printed on the official ballot on the ‘independent’ column, must the ballot contain a list of all offices state and county which are to be filled at the election, or should it contain only those offices for which some candidate has been nominated. For example, in a case where the only office for which an independent candidate is running, is that of county attorney, may the independent column be completely blank except for the designation of the office of county attorney and filled by the name of the independent candidate for that office, or must the independent column enumerate also all the other offices, state and county, which are to be filled at the election?”

Since there is no independent party in Montana, it is my opinion that it is not necessary or proper to list the offices to be filled in the independent column on the official ballot, except those offices for which there are independent candidates. The candidates for which offices are furnished by the different political parties with the exception that a person may, by statute, become an independent candidate by following the procedure prescribed. Since there is no independent party, it seems illogical to list the various offices to be filled in the independent column, except, of course, such offices for which there are independent candidates. Not only would such listing be confusing to the voter but it seems entirely unnecessary for the reason that below the name of every candidate for every office to be filled on each party ticket, there is a square and space to fill in names in case the voter wishes to vote for someone not on the ballot. Moreover, we do not find any statute requiring it. Section 681, R. C. M. 1935, prescribes the form of the ballot and provides for listing of the names of offices where a political party has no candidates for such offices. The

Opinion No. 340.

Elections—Ballots—Offices.

HELD: It is not necessary or proper to list the offices in the independent column on the official ballot at the general election, except those offices for which there are independent candidates.

statute, however, makes no similar provision for listing the names of offices in the independent column where there are no candidates for such offices.

Since there appears to be no reason or necessity for it, and the statute does not require it, and since it would only serve to confuse the voter to do so, I am of the opinion that no offices to be filled at the general election should be listed on the ballot in the independent column, except those offices for which there are independent candidates.

I am advised by the Secretary of State that the practice of his office has been in line with this opinion.