

Opinion No. 180.

Elections—Nominations—Acceptance
of Nominations—Primary Elections—
Armed Services, Voting.

Held: Citizens nominated for public office at the July 16 primary election by having their names written in on a primary election ballot have until the 10th day of August, 1946, in which to file acceptances of nominations in the proper state or county offices.

July 11, 1946.

Mr. H. L. Parcels
County Attorney
Stillwater County
Columbus, Montana

Dear Mr. Parcels:

You have called the attention of this office to an apparent conflict between Section 1 of Chapter 27, Laws of 1945, and Section 14 of Chapter 143, Laws of 1945, relative to the time allowed by law after a primary nominating election in which a write-in candidate may file his acceptance of nomination.

The concluding paragraph of Section 1 of Chapter 27, Laws of 1945, provides in part as follows:

"Any person receiving the nomination by having his name written in on the primary ballot, and desiring to accept such nomination, shall file with the secretary of state, county clerk, or city clerk, a written declaration indicating his acceptance of said nomination within ten (10) days after the election at which he receives the nomination, and at the same time he shall pay to the officer with whom such declaration of acceptance is filed the fee above provided for filing a primary nominating petition for such office, provided that such person must receive at least five per cent (5%) of the votes cast for such office at the last preceding general election . . ."

The concluding paragraph of Section 14 of Chapter 143, Laws of 1945, provides:

"Notwithstanding any of the provisions of existing law, certificates for nomination of candidates for office who are not nominated by convention or by primary election must file their certificates of nomination in the proper office not later than the 10th day of August in the year in which a general election, at which they are candidates, is held, and in all cases where a citizen is nominated for public office at a primary election by having his name written in on a primary election ballot his acceptance of nomination shall be filed in the proper office, state or county on or before the 10th day of August in the year in which a general election, at which he is a candidate, is held. No candidate's name shall be placed on the general election ballots whose certificate of acceptance of nomination has not been filed on or before the 10th day of August in the year the general election is held."

Chapter 27, Laws of 1945, is an amendment to Section 640, Revised Codes of Montana, 1935, and is a general statute. Chapter 143, Laws of 1945, is a special and temporary enactment modifying the general election laws and temporarily suspending some of them for the purpose of securing to electors absent from their voting precincts by reason of military service the right and privilege of participating in Montana's elections.

Section 18 of Chapter 143, Laws of 1945, provides the act shall be and remain in force and effect only until the last day of the thirtieth regular session of the legislative assembly of the State of Montana; and it further provides all provisions of law which are inconsistent with the chapter shall be temporarily suspended for the duration of the act. Upon the expiration of the act, however, the section specifically provides all such inconsistent provisions shall again become of full force and effect as if Chapter 143 had never been passed.

Our Supreme Court has held that where there is one statute dealing with a subject in general and comprehensive terms, and another dealing with a part of the same subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent legislative policy; but, to the extent of any necessary repugnance between them, the special will prevail over the general. (*Story Gold Dredging Company v. Wilson* (1938), 106 Mont. 166, 175, 76 Pac. (2d) 73.)

The legislative intent as evidenced in Section 18 of Chapter 143, Laws of 1945, and also as evidenced in the title of the chapter was to have this special statute—designed and enacted for the benefit of electors absent from their voting precincts because of service with the military forces—prevail over any and all provisions of existing law during the definitely specified life of the act.

It is therefore my opinion citizens nominated for public office at the July 16 primary election by having their names written in on a primary election ballot have until the 10th day of August, 1946, in which to file acceptances of nominations in the proper state or county offices. This opinion is directed only to the date of filing such acceptance and in no other way affects

the provisions of Chapter 27, Laws of 1945, and is also written with full knowledge of the provisions of Chapter 105, Laws of 1943.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General