

ELECTIONS: Candidate can seek nomination for more than one office on the same party ticket.

April 19, 1944

FILED 5

Honorable William Barton
Member of Missouri Legislature
Jonesburg, Missouri



Dear Sir:

The Attorney-General acknowledges receipt of your letter of April 14, 1944, requesting the opinion of this Department. Your letter reads as follows:

"Please give me information if one person may file at the primary for more than one office as a candidate. I am particularly interested in county offices.

"Perhaps you have an opinion on file or can give me some information in answer to the above without going to the trouble of writing an opinion as I would like to have this information before April 25th, and many thanks."

The following statement is a portion of the opinion written by Judge Ellison in the case of State ex rel. Neu v. Waechter et al., appearing in 58 S. W. (2d) 971, 1. c. 974:

"The other reason assigned by the respondent election commissioners is that under the provisions of section 10441, R. S. Mo. 1929, the relator could not become a candidate for the Republican nomination for mayor because he had previously filed as a candidate for alderman and could not withdraw, and furthermore could not run for two places on the same ticket. This calls for a construction of the statute, which is as follows:

"(1) No person shall file more than one written declaration indicating the party designation under which his name is to be printed on the official ballot, (2) and it shall be unlawful for his name to appear on more than one ballot at said primary election, (3) and all declaration papers shall be filed with the board of election commissioners of such city, and such declaration papers shall not be withdrawn, (4) but the names of candidates who so declare shall be printed on the official primary ballot."

"For convenience in reference we have divided the section into four parts by the insertion of numbers in parentheses. The first provision is that 'no person shall file more than one written declaration indicating the party designation under which his name is to be printed on the official ballot.' The second provision is that 'it shall be unlawful for his name to appear on more than one ballot at said primary election.' (All italics ours.) Turning to sections 10448 and 10449 R. S. 1929 (Mo. St. Ann. Secs. 10448, 10449), we find the law requires each declarant to specify in his declaration the party upon whose ticket he proposes to run; and further requires the names of all candidates to be grouped by the election board under their respective party designations, one form of ballot being provided for each political party, or group, as defined in another section, section 10438, R. S. 1929 (Mo. St. Ann. Sec. 10438). Considering all these statutes together, it is obvious that the first two parts of the quoted section 10441 mean no more than they plainly say; namely, that a candidate cannot file or stand for nomination on more than one party ticket at the same election. The first provision of said section 10441 is identically the same as the opening language of section 5862, R. S. Mo. 1909, now section 10260, R. S. Mo. 1929 (Mo. St. Ann. Sec. 10260), in the general

primary law, and the latter section was so construed nearly twenty years ago in State ex rel. Dunn v. Coburn, supra, 260 Mo. 177, 168 S. W. 956, cited by relator in his petition.

"There is absolutely nothing in section 10441 justifying respondents' contention that a candidate cannot seek nomination for more than one office on the same party ticket. Neither will section 18, art. 9, of the state Constitution, bear that construction. It provides 'no person, shall, at the same time, fill two municipal offices' (*italics ours*); but it does not say a person shall be ineligible for nomination to more than one office. See State ex rel. McAllister v. Dunn, 277 Mo. 38, 209 S. W. 110, and 46 C. J., Sec. 55, p. 947. There is, however, a section in the general primary law, section 10244, R. S. Mo. 1929 (Mo. St. Ann. Sec. 10244) which squarely provides 'no person shall accept a nomination to nor be published as a candidate for more than one office.' * * * * *

We believe that the above and foregoing statement is squarely in point and is decisive of the question contained in your letter.

It is the opinion of this Department that a candidate can seek nomination for more than one office on the same party ticket.

Respectfully submitted,

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Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

RCL:EG