

COUNTY SUPERINTENDENT OF SCHOOLS: Candidate is at liberty to announce himself on any platform he desires; tickets bearing words "Democratic ticket" would not invalidate the election providing no fraud existed and same were acceptable to persons in charge of the election.

March 8, 1935.

3-14



Hon. Mark Wilson,
Prosecuting Attorney,
Henry County,
Clinton, Missouri.

Dear Sir:

This department is in receipt of your letter of February 18 wherein you make the following inquiry:

*****Is it illegal for a candidate for County Superintendent of Schools to announce as a Democratic candidate?

Is it illegal for a candidate for County Superintendent of Schools to have tickets printed bearing the words 'Democratic Ticket'?"

Section 9454, R.S. Mo. 1929 is the only section relating to the election of a County Superintendent of Schools and provides as follows:

"There is hereby created the office of county superintendent of public schools in each and every county in the state; the qualified voters of the county shall elect said county superintendent at the annual district school meeting held on the first Tuesday in April, 1923, and every four years thereafter; said county school superintendent shall be at least twenty-four years old, a citizen of the county, shall have taught or supervised schools as his chief work during at least two years of the eight years next preceding his election or appointment; or shall have spent the two years next preceding his election or appointment as a regular student in a state teachers'

college or university, and shall at the time of his election hold a diploma from one of the state teachers colleges or state university, or shall hold a state certificate, authorizing him to teach in the public schools of Missouri, or shall hold a first grade county certificate authorizing him to teach in the county of which he is superintendent; the person elected county school superintendent at the annual school meeting held the first Tuesday in April, 1923, shall immediately upon his election, qualify under this article as county superintendent of public schools, and shall serve as such until the first Monday in July, 1927, or until his successor is elected and qualified. All county school superintendents elected on the first Tuesday in April, 1927, and thereafter, shall hold said office for a term of four years from and after the first Monday in July following their election, or until their successor is elected and qualified, and all vacancies caused by death, resignation, refusal to serve, or removal from the county, shall be filled by the governor by appointment for the unexpired term; the county school superintendent shall turn over all books, papers, certificates, stub books and records, in his possession to his successor. All acts or parts of acts conflicting with this section are hereby repealed."

By the terms of the above section the County Superintendent of Schools is elected at the annual school district meeting held on the first Tuesday in April. The qualifications of the person to be elected or appointed are set forth.

Section 9455, R.S. Mo. 1929 sets forth the duties of the County Clerk and of the school district officers with respect to the election of a County Superintendent of Schools. It contains no provision for the printing of ballots, and in view of the fact that it contains no provision for candidates filing for this office within any specified time prior to the election, or any provision for a candidate expressing his party affiliations, it is the opinion of this department that any candidate is at liberty to announce himself as a candidate on any platform he may desire.

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If he desires to stand on the principles of the Democratic Party as enunciated by Thomas Jefferson, we know of no provision of the statutes which would prevent him from doing so.

As to your second question, the same principle and logic would apply. We again call your attention to the fact that Section 9455, R.S. Mo. 1929 contains no provision for the printing of ballots. We are cognizant of the fact that in many of the districts, especially the cities, there are printed ballots. We consider this right to be optional with the district; therefore, as to whether or not a candidate may have tickets printed bearing the words "Democratic Ticket", it would be optional and discretionary with the persons in charge of the election. If the officials desire to adopt the tickets as presented by the candidate and no fraud resulted therefrom, we do not believe this would invalidate the election.

Section 9455 contains this provision "the voting for county superintendent shall be by ballot and all ballots cast shall be counted for the persons for whom cast, and it is hereby made the duty of the members of the board of directors and the chairman and secretary of the annual school meeting to see that each ballot so cast is counted for the person receiving the same." Again, we repeat that it is the opinion of this department that it is optional and discretionary with the officers in charge of the election as to whether or not a candidate may have tickets printed bearing the words "Democratic Party".

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General

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