

ELECTIONS: Interpretation of Section 10241, Revised Statutes Missouri 1929

August 26, 1936

Honorable Henry C. Salveter
Prosecuting Attorney
Pettis County
Sedalia, Missouri



Dear Sir:

This department is in receipt of your letter of August 20, requesting an interpretation of Section 10241, Revised Statutes Missouri 1929, as it refers to a candidate for the office of sheriff, on the following two questions:

- 1 Who is competent to sign a certificate of nomination under this section, and
- 2 To what election do the words of this statute, "at the last preceding election" refer.

Section 10241, Revised Statutes Missouri 1929, provides:

"The certificate of nomination of a candidate selected otherwise than by a primary shall be signed by electors resident within the district or political division for which the candidate is presented, to a number equal to two per cent. of the entire vote cast at the last preceding election in the state, the county or other division or district for which the nomination is made; provided that said signers shall declare in said certificate that they are bona fide supporters of the candidate sought to be nominated and have not aided and will not aid in the nomination of any other candidate for the same office."

In the case of State ex rel. Preiss v. Seibel 295 Mo. 607, l. c. 624, the Supreme Court said:

"Section 4811 provides for the nomination of candidates for public offices otherwise than by a primary election. If electors resident within a district or political division of the State, to a number equal to one per cent of the entire vote cast at the last preceding election in the State, county or other political division, desire to nominate one or more candidates for public offices, to be filled by election, the right to nominate them and have their names printed on the ballots is guaranteed in the manner prescribed by this section of the statutes. The candidates so nominated may be those already nominated by one of more of the political parties, so that under this section electors may nominate candidates of the various political parties and have their names printed on the ballots. This authorizes electors to act independently of all political parties. In other words, a ticket so nominated would be a non-partisan or non-political ticket. The only restriction upon such nomination is that the electors signing a certificate of nomination must declare in the certificate that they are bona-fide supporters of the candidate sought to be nominated, and have not aided and will not aid in the nomination of any other candidate for the same office."

In view of the foregoing, it is the opinion of this department that only those electors are qualified to sign the certificate of nomination who have not aided and do not intend to aid in the nomination of any other candidate for the same office. In other words, if an elector voted for some other candidate for sheriff in the primary election he

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is not qualified to sign the certificate of nomination.

We are further of the opinion that the words of the statute, "at the last preceding election," refer, in this instance, to the last preceding election for the office of Sheriff of Pettis County.

Respectfully submitted,

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General

JWH:LC