

CANDIDATE: The phrase and letters, "(Mr. Econ CDOSA)" cannot
BALLOTS: appear on the ballot because they are purely de-
ELECTIONS: scriptive.

OPINION NO. 257

May 9, 1968

Honorable James C. Kirkpatrick
Secretary of State
Capitol Building
Jefferson City, Missouri



Dear Mr. Kirkpatrick:

This is in response to your recent inquiry concerning the declaration of candidacy of Beverly Kitching, under Section 120.340 RSMo Supp. Specifically, you inquire whether Mr. Kitching may, in a declaration announcing himself as a candidate for the office of United States Senator, be placed on the ballot as: "Beverly (Mr. Econ CDOSA) Kitching".

It is our understanding that Mr. Kitching is or has been an economics professor and for that reason desires to associate himself with the phrase "Mr. Econ". We understand that the letters "CDOSA" are an abbreviation for "Cut Down on Spending Abroad".

Our Opinion 159, to the Honorable Warren E. Hearnes, dated April 18, 1962 (attached), concluded that the "name" of the candidate cannot include purely descriptive matter such as the degree held or the occupation in which he is engaged. Although the basic section of the Missouri law which was construed in that opinion, that is, Section 120.340, RSMo Supp., has been amended since the opinion, the amendments do not affect the decision. This opinion is in accord with State ex rel. Rainey v. Crowe, 382 S.W.2d 38 (1964), in which the St. Louis Court of Appeals found that the possession of a degree of doctor of medicine by a candidate for office of coroner and a candidate's use of initials "M.D." after his name indicating the degree, did not have the effect of changing his name. The letters "M.D." were found not to be the equivalent of "name", but merely descriptive. That court cited with approval the case of State ex rel. Whetsel v. Murphy, 122 O.S. 620, 174 N.E. 252, wherein it was held to be unlawful to place any characterization or description either before or after the name of the candidate upon the ballot when there was not such identity of the names of

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two or more candidates as to justify some description which would permit the voters to make an intelligent expression of choice.

The Rainey case was cited in Toigo v. Columbia County Board of Elections, 51 Misc.2d 754, 273 N.Y.S.2d 781 (1966), In the Toigo case the court stated at l.c. 783-784:

" * * * It would be neither fair nor practical to permit the insertion of such titles or degrees with candidates' names, much less the myriad appellations and items of descriptive matter that might logically follow and which election fever and ingenuity would undoubtedly generate."

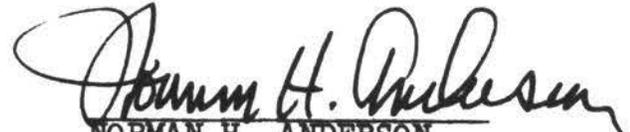
While we are not here holding that the nickname of a candidate by which he is distinctively known might not be placed on the ballot so as to sufficiently identify the person, the phrase "Mr. Econ" is objectionable in that it is not part of a name but is of a descriptive nature. Clearly, the abbreviation "CDOSA" forms no part of a name and neither it nor the phrase "Mr. Econ" which precedes it, together, or separately, has any better claim to a place on the ballot than those descriptive appellations already rejected by our appellate courts.

CONCLUSION

It is therefore the opinion of this office that, the phrase and letters "(Mr. Econ CDOSA)" cannot appear on the ballot because they are purely descriptive.

The foregoing opinion, which I hereby approve, was prepared by my assistant John C. Klaffenbach.

Yours very truly,


NORMAN H. ANDERSON
Attorney General

Enclosure: Opinion 159 to
Honorable Warren E. Hearnes
April 18, 1962