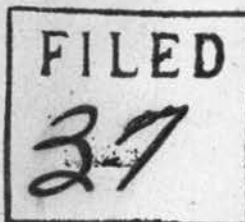


ELECTIONS: Candidate nominated by use of primary ballot stating  
NAME APPEARING ON BALLOT: the first two initials and the last name may appear  
ON BALLOT: on the general election ballot by a first initial,  
middle name and last name if, in judgment of official  
whose duty it is to print the ballot, said first  
initial, middle name and last name sufficiently identifies him.

October 20, 1950



Mr. Lane Harlan  
Prosecuting Attorney  
Boonville, Missouri

Dear Mr. Harlan:

We have your recent letter in which you request an opinion of this department. Your letter is as follows:

"In the primary election the name of a candidate for the office of Treasurer was placed on the Democratic ballot as C. H. Cochran. The sample ballot in the primary was sent to him and he gave his approval.

"In the general election, he desires to have the name changed to C. Harrison Cochran. Harrison is his middle name. Our County Clerk has requested an opinion from your office as to whether or not this requested change is valid."

Section 11550, R.S.A. Mo. 1939, is as follows:

"The name of no candidate shall be printed upon any official ballot at any primary election, unless at least sixty days prior to such primary a written declaration shall have been filed by the candidate, as provided in this article, stating his full name, residence, office for which he proposes as a candidate, the party upon whose ticket he is to be a candidate, that if nominated and elected to such office he will qualify, and such declaration shall be in substantially the following form:

I, the undersigned, a resident and qualified elector of the (\_\_\_\_\_ ) precinct of the

Mr. Lane Harlan

town of \_\_\_\_\_), or (the  
precinct of the \_\_\_\_\_ ward of the city  
of \_\_\_\_\_), county of \_\_\_\_\_  
and state of Missouri, do announce myself  
a candidate for the office of \_\_\_\_\_  
on the \_\_\_\_\_ ticket, to be voted for at  
the primary election to be held on the first  
Tuesday in August, \_\_\_\_\_, and I further  
declare that if nominated and elected to such  
office I will qualify.

"(Signed) \_\_\_\_\_."

The candidate mentioned in your letter filed in the primary under the above quoted section and giving his name as C. H. Cochran was nominated by the voters of his party. The section above quoted requires that a candidate for nomination in the primary shall state his full name in his declaration. This candidate stated his two initials and his last name, failing to state his first and middle name and thus identified was voted upon by the voters and received sufficient votes for his nomination. We are of the opinion that notwithstanding his failure to state his full name on the ballot his nomination is valid because a designation sufficient to identify him was embodied in his declaration and placed upon the ballot and the person so designated received sufficient votes for nomination.

While the question as to whether or not a filing in the primary by use of two initials and the last name is sufficient compliance with the provisions of the above quoted section which requires the statement of the full name of the candidate in his primary declaration is not presented by your letter nevertheless we deem it to be relevant to discuss it in reaching an answer to your question as to whether a more complete statement of the name of the candidate may be used on the ballot in the general election than was set forth on the primary ballot.

In this connection we comment that while the designation of the name of the candidate in his primary declaration and on the primary ballot by the use of two initials preceding the last name might seem to fall short of full compliance with the requirement of the statute that the full name of the candidate must be embodied in the primary declaration, nevertheless, it is quite obvious that numerous candidates in filing have used only their initials and their last name and the actions of county clerks and secretaries of state in printing only initials and the last name on the primary ballot in numerous instances amount to administrative constructions of the statute to the effect that such filing constitutes compliance



Mr. Lane Harlan

with the statute which administrative constructions are at least persuasive. We comment further, however, that even if such filing does not amount to full compliance with that provision of the above quoted statute, we are of the opinion that said provision is directory and not mandatory and that to hold the nominations of a candidate so filing invalid, would amount to a disenfranchisement of those persons who voted for him in the primary. The following is a quotation from the opinion of the Supreme Court of Missouri in the case of *Bowers v. Smith*, 111 Mo. 45, l.c. 55:

"The suffrage is regarded with jealous solicitude by a free people, and should be so viewed by those intrusted with the mighty power of guarding and vindicating their sovereign rights. Such a construction of a law as would permit the disfranchisement of large bodies of voters, because of an error of a single official, should never be adopted where the language in question is fairly susceptible of any other."

Since we hold the nomination of the candidate in question not to have been invalidated by reason of the fact that his name appeared in his primary declaration and on the primary ballot only by his two initials and his last name, we are in a position to consider the question as to whether his name may be more fully set forth on the general election ballot by printing it as C. Harrison Cochran as he requests instead of as C. H. Cochran as set forth in the candidate's primary declaration and printed in the primary ballot.

You state in your letter that Harrison is the candidate's middle name. Since the middle initial appearing on the primary ballot was "H" such a printing of the name on the general election ballot as called for by him would not be inconsistent with the primary ballot. We are of the opinion that the provision for insertion of the full name of the candidate in his primary declaration and on the primary ballot indicates a general intent on the part of the Legislature that the candidate shall be thoroughly identified to the voters.

While we find no decision of the Supreme Court of Missouri construing the meaning of the words "full name" we desire to quote the following enlightening comment from the opinion of the Court in the case of *State v. Corneli*, 149 S.W. 2d. 815:

Mr. Lane Harlan

"\* \* \*A person's name is the designation ordinarily used, and by which he or she is known in the community. Names are used as a method of identification. Whether the identification is sufficient is ordinarily a question of fact."

We are therefore of the opinion that the placing of the middle name of the candidate together with the first initial and the last name on the general election ballot will unquestionably amount to a more complete identification of the candidate than the printing of the first two initials and the last name as it appeared on the primary election ballot.

#### CONCLUSION

We are accordingly of the opinion that it is permissible for the county clerk to print the name of the candidate in question on the general election ballot as "C. Harrison Cochran" if, as a matter of fact, that name is the name ordinarily used by the candidate and sufficiently identifies him.

Respectfully submitted,

SAMUEL M. WATSON  
Assistant Attorney General

APPROVED:

J. E. TAYLOR  
Attorney

SNW:mw