

ELECTIONS: Cross mark must be placed in square at the left of "write-in" candidate's name.

October 21, 1948

Honorable Samuel Semple  
Prosecuting Attorney  
Randolph County  
Moberly, Missouri



Dear Mr. Semple:

This Department is in receipt of your request for an official opinion which reads as follows:

Would you please give me an official opinion on the following questions:

- 1) May a voter write-in the name of any person he chooses for any office when there is no nominee for that office elected at the primary election?
- 2) If the answer to the above question is yes, then is the mere writing in of the name sufficient, or must a cross mark be placed in the square to the left of the name?

Section 11603, R. S. Mo. 1939, provides, in part, as follows:

"\* \* \* If the voter desires to vote for one or more candidates whose name or names do not appear on the printed ballot he may do so by drawing a line through the printed name of candidate for such office, and writing below such cancelled name the name of the person for whom he desires to vote, and placing a cross mark in the square at the left of such name. \* \* \*"

Honorable Samuel Semple

-2-

In answer to your first question, this Department on September 28, 1948, to Honorable Emory L. Melton, Prosecuting Attorney, Barry County, Cassville, Missouri, held as follows:

"We are of the opinion that at a general election a voter may 'write in' the name of any person he chooses for any office he chooses without regard to whether or not there is a regular party nominee. Further, that, under our system of elections, the person receiving the majority vote for any particular office is the person elected to said office."

A copy of this opinion is enclosed.

In answer to your second question, it will be noted that Section 11603, supra, is plain in its requirement that a person writing in the name of a candidate must place a "cross mark in the square at the left of such name." Therefore, a voter who writes in the name of a person for an office for which no candidate was nominated at the primary election, must not only "write-in" the name of the person, but must also place a cross mark in the square at the left of the name.

#### CONCLUSION.

It is, therefore, the opinion of this Department that: a voter may "write-in" the name of a person he chooses for any office, regardless of whether or not there is a party nominee.

It is further the opinion of this Department that: a cross mark must be placed in the square at the left of such name written in, even though a cross mark has been placed at the top of the ballot.

Respectfully submitted

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APPROVED:

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