

Opinion No. 56-6408

March 14, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Thomas P. Foy, District Attorney, Sixth Judicial District, County Court House, Silver City, New Mexico

On March 6, you addressed to this office an inquiry concerning a person who filed for the office of State Representative and did not designate whether he filed for place one or place two.

The new constitutional provision, Article IV, § 3, Constitution of New Mexico, provides, in part, as follows:

"d. For the purpose only of selection in each County entitled to elect more than one member of the House of Representatives, there shall be designated by the officer issuing the election proclamation as many places, consecutively numbered, as there shall be Representatives to be elected in such County, and only one member of the House of Representatives shall be elected for each place designated. *** **Each candidate shall designate, upon filing his petition, the position number for which he is a candidate**, and the County Clerk shall so designate him upon the ballot."

Therefore, it is the opinion of this office that the failure of the person who filed for office to designate the "place" was a violation of the provisions of the above quoted section of the Constitution, and, therefore, such person cannot be placed upon the ballot. It is our suggestion that you advise your county clerk to refuse to place the candidate's name upon the ballot and any court action which he desires to take is dependent upon his own wishes.

We sincerely hope this answers your inquiry.

By Fred M. Standley

Assistant Attorney General