

Opinion No. 40-3582

July 29, 1940

BY: FILO M. SEDILLO, Attorney General

TO: Mr. Garland Jacobs, County Clerk, Clayton, New Mexico.

{*148} In your letter dated July 28 you ask whether or not an elector when voting will be permitted to write in the name of a person as his choice for any office when this person's name is not listed in the official primary ballot.

Section 9 of Chapter 2 of the Special Session Laws of 1938 provides that any person desiring to become a candidate of any political party participating in the primary for any office shall not less than thirty days before the date of the primary file a declaration of candidacy. At the same time of filing such declaration, such candidate shall file therewith a petition for nomination signed by no less than a certain number of qualified electors, who are members of his political party.

The above being true, I am of the opinion that other names which are not on the official ballot, but are written in said ballots cannot be counted by the election officials since there is no provision for write-ins, and therefore in preparing {*149} the official ballots I do not believe that it is necessary to leave blank spaces for said purposes.