

**OPINION
58-102**

May 9, 1958 (OPINION)

ELECTIONS

RE: Designation of Party on Ballot

Pursuant to your telephone request of May 8, 1958, please be advised that it is the opinion of the attorney general that a Non-Partisan League candidate for election on the Democrat primary ballot may not have on the official ballot following his name a designation that he is a NPL affiliate.

The statutes are clear on the duty of the auditor in making up the ballot. They make no provision for a particular designation other than that the Democrats appear on the Democrat ballot and Republicans appear on the Republican ballot. If the Non-Partisan League chooses and is qualified under section 16-0420 of the 1957 Supplement to the North Dakota Revised Code of 1943, it too may have a separate ballot which would indicate Non-Partisan League affiliation. Where it does not do that, however, and instead chooses to file on either the Democrat or Republican ballot, it is insofar as the law pertaining to election ballots is concerned Democrat or Republican.

It is true that there is case law permitting the auditor to make a designation for identification purposes after the name of a particular candidate on the ballot where there is danger of the candidates' names being confused. That principle is inapplicable, however, where there is no danger of confusion of the names of the candidates. The purpose for the designation suggested by you in your request would be only to advertise the political inclination of a particular candidate. It would be just as appropriate to indicate on the ballot that a particular candidate is of a designated church, lodge, veterans' organization, or school of thought. There would be no end to the problems presented if such reasoning could prevail.

It is true that the candidate who is a NPL-Democrat may have some difficulty in avoiding being confused by voters with a Democrat. Such confusion can best be avoided by aggressive campaigning on the part of such candidate. Otherwise, it is difficult to distinguish between two gray cats in the dark - the law will not aid such distinction by designation on an official ballot.

LESLIE R. BURGUM

Attorney General