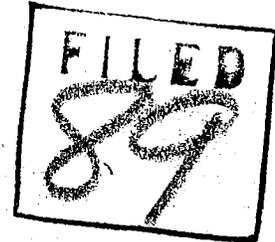


ELECTIONS: Declarations of candidacies for nomination to circuit judge-
ships in divisions three or four of the 13th judicial cir-
cuits prior to redesignation of said judicial circuit as the
twenty-first judicial circuit by S.B. 96, 70th General Assem-
bly, should be considered as filed for offices in the 21st
judicial circuit, and should be so certified by the Secretary
of State.

September 14, 1959



Honorable Walter H. Toberman
Secretary of State
State of Missouri
Capitol Building
Jefferson City, Missouri

Dear Mr. Toberman:

This opinion is in reply to your inquiry reading as follows:

"This office respectfully requests an opinion
based on the following facts:

"Senate Committee Substitute for Senate Bill
Number 96, enacted by the 70th General Assem-
bly, approved by the Governor on June 12, 1959,
changed the numbering of the 13th judicial
circuit. The 13th circuit is now numbered the
21st circuit. Our question is this:

Is it necessary for candidates who
have already filed for election in
the 13th circuit to refile as a
candidate from the 21st circuit?

Also, should the candidates be cer-
tified to the Election Board from
the 13th or 21st Circuit?"

Section 478.117, RSMo 1949, which designated the County of
St. Louis as the thirteenth judicial circuit in Missouri was re-
pealed outright by Section 1 of Senate Bill No. 96, passed by the
70th General Assembly of Missouri and effective August 29, 1959.
Section 478.140 of Senate Bill No. 96 provides:

"478.140. Circuit number twenty-one shall
consist of the county of St. Louis."

We find no change in geographical boundaries effected in the
former thirteenth judicial circuit by its redesignation as the
twenty-first judicial circuit.

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Declarations of candidacies for nomination to circuit judgeships in St. Louis County are filed under Section 120.340, RSMo 1949, providing as follows:

"The name of no candidate shall be printed upon any official ballot at any primary election unless such candidate has on or before the last Tuesday of April preceding such primary filed a written declaration, as provided in sections 120.300 to 120.650, 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 town of), or (the..... precinct of the ward of the city of), or the precinct of township of the 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."

Section 478.010, Para. 4 of Senate Bill No. 96, supra, provides:

"4. In judicial circuit number twenty-one, the judges of divisions one, two, seven and eight shall be elected in 1964, the judges of divisions three and four shall be elected in 1960 and the judges of divisions five and six shall be elected in 1962."

A review of the declaration of candidacies referred to in the request for this opinion has been made and they disclose that the candidates filing declarations of candidacies for circuit judgeships to be filled in 1960 have designated either division three or four as the office they seek in the thirteenth judicial

Honorable Walter H. Teberman

circuit. Thus, it appears that the candidates filed for the particular judgeships to be filled in 1960. The renumbering of the judicial district from number thirteen to number twenty-one, without change in geographical boundaries from those embracing St. Louis County subsequent to the time the declarations in question were filed with the Secretary of State, will not cause those declarations to be improper in contents, nor should they be considered filed out of time.

It is peculiarly within the knowledge of the Secretary of State that the former thirteenth judicial circuit has been renumbered without changing its geographical limits or making a change in the circuit judgeships to be filled in that judicial circuit in 1960. Under Section 120.380, RSMo 1949, the duties of the Secretary of State are found in the following language:

"At least eighty-five days before any primary preceding a general election, the secretary of state shall transmit to each county clerk a certified list containing the name and post office address of each person who shall have filed declaration papers in his office and entitled to be voted for at such primary, together with a designation of the office for which he is a candidate and the party or principle he represents."

When the Secretary of State accomplishes the task outlined in the preceding statute, he should certify the candidates in question as having filed for circuit judgeships in the twenty-first judicial circuit.

CONCLUSION.

It is the opinion of this office that declarations of candidacy filed with the Secretary of State of Missouri for nomination in 1960 for circuit judgeships in divisions three or four in the thirteenth judicial district comprising the whole of St. Louis County, prior to the effective date of Senate Bill No. 96 of the 70th General Assembly of Missouri, should be considered as and for declarations of candidacy for such circuit judgeships in said judicial circuit which has been renumbered the twenty-first judicial circuit of Missouri, and the Secretary of State should so certify such declarations under Section 120.380, RSMo 1949.

Honorable Walter H. Toberman

The foregoing opinion, which I hereby approve, was prepared
by my assistant, Julian L. O'Malley.

Yours very truly,

John M. Dalton
Attorney General

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