

COUNTY CLERK: Must publish title to office for primary election.

7-18  
July 17, 1934



Hon. Frank H. Davidson,  
County Clerk,  
Harrisonville, Missouri.

Dear Sir:

This Department is in receipt of your request for an opinion as to the following state of facts:

"In the County Clerks publication of Primary election notice under section 10262 R. S. 1929, is it necessary to leave blank spaces in the publication, where no one has filed for office on any given ticket, or is it sufficient to only print the names and addresses of the candidates that have filed, and the office for which they have filed declaration papers?

"To be more explicit:- In our county no one has filed for a county office on the Republican ticket.

"In the publication of the Republican ticket in the paper is it necessary to leave blank spaces for the offices for which no candidate has filed?"

Section 10262, Revised Statutes of Missouri 1929 provides:

"Such clerks shall, upon receipt thereof, publish, under the proper party designation, the title of each office, the names and addresses of all persons who shall have filed declaration papers, giving the name and address of each, the date of the primary, the hours during which the polls will be opened, and that the primary will be held at the regular polling places in each precinct. It shall be the duty of the county clerk to publish such notice for three consecutive weeks next prior to said primary."

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It has been sometimes said that certain provisions of the election laws are mandatory and others are directory. Strictly speaking, however, all provisions of such laws are mandatory in the sense that they impose the duty of obedience on those who come within their purview.

Section 10262 expressly requires the county clerk to publish under the proper party designation, the title of each office and it is our opinion that this mandatory provision of the statute must be fulfilled by the county clerk.

In the case of Rollins v. McKinney, 157 Mo. l.c. 665, the Court said:

"The statutory ballot for that office was a blank space on the Republican ticket, under the title of the office, in which the elector might write the name of his choice for that office, and by which he was advised of the fact that there was no nominee of that party for that office at that election."

From the foregoing it is the opinion of this Department that it is the duty of the county clerk to publish under the proper party designation the title of each office even though for some particular office there be no one who has legally filed declaration papers.

Respectfully submitted,

JOHN W. HOFFMAN, Jr.  
Assistant Attorney-General

APPROVED:

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ROY McKIPTRICK  
Attorney-General

JWH/mh