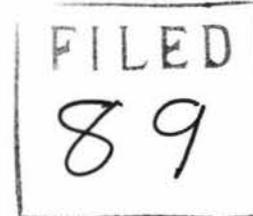


ELECTIONS:  
POLITICAL PARTY:

Prohibition Party candidates entitled to  
be certified to county clerks.

April 27, 1950



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

Dear Sir:

This is in answer to your letter of recent date requesting  
an official opinion of this department and reading as follows:

"Since Section 11528, Missouri R.S. 1939 has  
been repealed and according to Section 11561  
R. S. Mo. 1939, it appears evident that candi-  
dates for nomination on any political party  
ticket which was on the ballot at the last  
election may secure a place on the ballot this  
coming election merely by filing their declara-  
tion of candidacy along with the necessary re-  
ceipt from the treasurer of their party.

"The Prohibition Party last filed a ticket in  
1946. A declaration of candidacy on the Pro-  
hibition ticket has recently been filed in this  
office.

"We respectfully request your opinion as to  
whether or not the candidacy of this person  
should be certified to the several County  
Clerks."

Section 11561, Revised Statutes of Missouri, 1939, provides  
as follows:

"Whenever any person shall have filed as a  
candidate for nomination upon a party ticket  
which, at the last preceding election for  
Governor, shall have cast less than 5 per  
cent of the total vote cast for Governor in  
such election, and when not more than one  
person shall have filed as a candidate for  
any office on such party ticket, no ballot  
shall be printed for the primary election as  
herein provided unless upon petition of at

Honorable Walter H. Toberman

least 10 per cent of the voters voting in the county at said preceding election for Governor. When no ballots are printed as hereinbefore provided, the candidates filing declarations and who are unopposed shall be certified, as by this chapter provided, as the nominees of such party casting less than 5 per cent of the vote of the state."

We believe it to be obvious that Section 11561, quoted supra, means that when persons file as candidates of a political party, that where not more than one person shall have filed as a candidate for any office on such party ticket, that no ballot need be printed except upon petition as specified in said section, whether such party had candidates at the preceding election for Governor or not.

Obviously if the party filed no state ticket at the preceding election for Governor, such party would have cast less than five per cent of the total vote cast for Governor.

The Prohibition Party has long been recognized in this state as a political party which has definite political principles and a creed different from and opposed to that of other political parties. Therefore, we believe it would be clear that the persons that file proper declarations of candidacy on the Prohibition ticket are to be certified by you to the county clerks and boards of election commissioners, as are the persons who file declarations of candidacy on other political tickets.

If not more than one person files as a candidate for any office on the Prohibition Party ticket, and no petition as provided for in Section 11561 is filed, the provisions of Section 11561 will be applicable to such Prohibition Party candidates.

#### CONCLUSION

It is the opinion of this department that the names of persons who have filed proper declarations of candidacy on the Prohibition Party ticket should be certified to the several county clerks and boards of election commissioners, as are the names of those persons who filed declarations of candidacy on the other political party tickets.

Respectfully submitted,

APPROVED:

C. B. BURNS, JR.  
Assistant Attorney General

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J. E. TAYLOR  
Attorney General