

July 14, 1965



Honorable Warren E. Hearnes  
Governor of the State of Missouri  
Capitol Building  
Jefferson City, Missouri

Dear Governor Hearnes:

You have sent us a letter dated June 22, 1965, addressed to Mr. Eugene P. Walsh, your Legal Assistant, received from Mr. Dwight Beals, a lawyer in Kansas City.

The letter from Mr. Beals states that it is his view that nominations to fill the vacancy in the office of the State Senate caused by the resignation of Senator Bondurant can be made only by petitions and not by party political committees and that the writ of election must set the date of the election at least eighty-five days after the issuance of the writ.

You have asked for our views regarding the contentions made in Mr. Beals' letter.

It is our view that nominations can be made to fill the vacancy in the State Senate due to Senator Bondurant's resignation both by political committees and both by petitions. It is further our view that it is not necessary that the election date be eighty-five days after the issuance of the writ.

We are enclosing official opinions of this office rendered under date of September 6, 1955, to Honorable William E. Tipton, September 29, 1955, to Honorable John R. Clark and June 13, 1961, to Honorable Edward Speiser. We believe that these opinions set forth the applicable law as stated above. You will note that the two 1955 opinions have been withdrawn. However, the holding of such opinions as to the proper time of an election to fill a vacancy in the State Senate and the method of nominating candidates at such election was not withdrawn. The reason for the withdrawal of the 1955 opinions is that such opinions held that

nominations to fill a vacancy in the office of the State Senate could not be made by nominating petitions where the date of the election set in the writ ordering the election was insufficient to allow candidates to file nominating petitions under applicable statutory provisions.

The enclosed opinion to Mr. Speiser holds that such statutory provisions are directory only and that candidates may be nominated by petitions for special elections even though such statutes purport to prohibit filing petitions for nominations during the period between the issuance of the writ of election and the date of election.

As stated above, the 1955 opinions are correct, insofar as, they hold that nominations to fill a vacancy in the State Senate at a special election may be made by the senatorial committees of the various political parties and under the holding in the 1961 opinion, nominations may also be made by nominating petitions.

Respectfully submitted,

NORMAN H. ANDERSON  
Attorney General

By  
C. B. Burns, Jr.  
Assistant Attorney General

CEB:fms

Encl:

cc: Mr. Dwight Beals, Suite 603 Commerce Building  
Kansas City 6, Missouri