

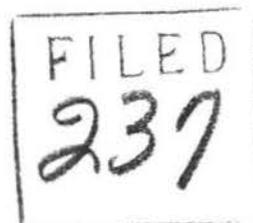
STATE REPRESENTATIVES:
HOUSE OF REPRESENTATIVES:
FILING:
CANDIDATES:

Declarations of candidacy that have heretofore been filed with the Secretary of State for the Office of State Representative, prior to the filing by the House Apportionment Commission of its final report with the Secretary of State, are invalid.

March 22, 1966

OPINION NO. 237

Honorable James C. Kirkpatrick
Secretary of State
Capitol Building
Jefferson City, Missouri



Dear Mr. Kirkpatrick:

This is in response to your request for an opinion dated March 16, 1966, on the following questions:

"1. Whether filings heretofore made with the Secretary of State for the office of State Representative are valid?"

"2. Whether filings heretofore made with the Secretary of State for the Office of State Representative for any district in which the filer resides, as may be established by the reapportionment process are valid?"

At the Special Election on January 14, 1966, the people adopted amendments to Article III of the Constitution relating to the apportionment of the House of Representatives. Section 3 of Article III relates to the time limits affecting the First Commission to Apportion the House of Representatives and provides:

"Excepting only the time limits prescribed in this section, all provisions of Section 2 shall apply."

Section 2, Article III, of the Constitution, as amended, provides:

"The commission shall reapportion the representatives by dividing the population of the

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state by the number one hundred sixty-three and shall establish each district * * *."

Said Section 2, Article III further provides:

"Not later than six months after the appointment of the commission, the commission shall file with the Secretary of State a final statement of the numbers and boundaries of the districts together with a map of the districts * * *."

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, * * *."

It is clear from the provisions of the Constitution, as amended, above noted, that House of Representative districts come into existence when the apportionment commission files its final report with the Secretary of State.

This office on December 27, 1961, issued Opinion No. 64 to George H. Morgan in ruling upon a similar question applicable to declarations of candidacy for nomination for senator and representative following the 1960 census, said:

"Therefore, in the opinion of this office, any declaration of candidacy filed before the new districts have been created is a nullity, there being no office in existence for which the candidate may seek nomination."

Also, an opinion of this office, No. 220, dated May 21, 1962, to Edgar J. Keating, dealing with filing for the office of constable before the date magistrate districts were established pursuant to the applicable provisions of the statute this office ruled:

"Hence, it is our opinion that until the new magistrate districts were created, any declaration of candidacy for the office of constable theretofore filed is a nullity, there being no office in existence for which the candidate may seek nomination. * * *"

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It is therefore clear that declarations of candidacy that have heretofore been filed with the Secretary of State for the Office of State Representative, prior to the filing by the House Apportionment Commission of its final report with the Secretary of State are invalid.

With respect to the answer to your second question, it is answered by the above answer to the first question and is likewise in the negative.

CONCLUSION

It is therefore the opinion of this office that declarations of candidacy that have heretofore been filed with the Secretary of State for the Office of State Representative, prior to the filing by the House Apportionment Commission of its final report with the Secretary of State, are invalid.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, J. Gordon Siddens.

Yours very truly,


NORMAN H. ANDERSON
Attorney General