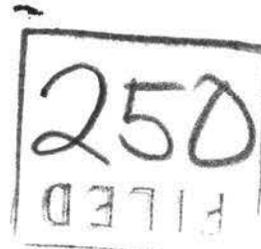


POLITICAL PARTIES:
PARTY COMMITTEE:
DATE OF CONGRESSIONAL
DISTRICT COMMITTEE MEETING:

Under Section 120.820, RSMo. Supp.
1967, pertaining to political parties,
Congressional District Committees
must meet on "the last Tuesday in
August after the primary election".

Opinion No. 250-68

June 18, 1968



Honorable Paul J. Simon
Representative of the 55th District
2756 A Lafayette Avenue
St. Louis, Missouri 63104

Dear Mr. Simon:

This is in reply to your recent inquiry requesting an official opinion of this office on the following question, as stated in your letter:

"I would like to request an opinion on the following matter. Under Section 120.820 Revised Statutes of Missouri, 1959, Congressional District Committees are required to meet on the last Tuesday in August following the primary election. As you are aware, the last Tuesday in August is the 27th and the Democratic National Convention convenes on August 26th. I would like to have an opinion as to the following; whether or not we are required to hold Congressional District meetings on the last Tuesday, and if so, can they be continued."

Section 120.820 RSMo. Supp., 1967, provides:

"The members of each congressional district committee as so chosen shall meet at some point within the district, to be designated by the then chairman of the congressional committee, on the last Tuesday in August after the primary election and organize by the election of one of their number as chairman and one as vice-chairman, one of whom shall be a woman, and by the election of a secretary, and treasurer, one of whom shall be a woman, but who may or may not be members of the committee, and having so organized such committee shall proceed to elect three men and three women, qualified electors of the district, as members of the party state committee." (emphasis added)

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Although there is no direct Missouri precedent which construes the meaning of this particular section as it relates to your question, ample legal authority has been found discussing the manner in which the courts have construed the meaning of the word "shall" in various statutes.

Statutes requiring the closing of general registration at a certain time prior to elections have been held mandatory (State vs. Flynn (St.L. MA 1941) 147 SW2d 210; State vs. Ridge (Mo. Sup. en banc 1938) 123 SW2d 20); and in State vs. Wade (Mo. Sup. en banc 1950) 231 SW2d 179, the court held mandatory a statute containing the word "shall" and requiring the Ozark County Court to file a financial statement, there being a penalty provided for failure to do so. General statutory principles on nominations by political bodies are found in 29 CJS, Elections:

"To give validity to its nominations, a convention of delegates must be held at the place fixed by the rules of the party; reasonable notice of the time and place must be given to the delegates. A statute fixing the time for a mass meeting for the nomination of candidates has been held mandatory; [Kinney v. House, Ala, 10 S2d 167] apart from such statute, a mass convention must be held at a time and place where citizens so inclined will have opportunity to assemble and participate." (29 CJS Elections, § 100, p.239).

"A statute pertaining to the notice to be given of a party caucus has been held mandatory, so that a purported nomination made on inadequate notice is void. [Densmore v. Western 11, 115 NYS 2d 863]" (Supra CJS, § 104, p. 243).

It is clear that the requirement of Section 120.820 that the congressional district committee meet on the last Tuesday in August after the primary election is part of an over-all design in Chapter 120, RSMo., regarding the organizational method of the formal structure of political parties. Although we do not rule on Section 120.800, RSMo., we note that it requires the various county committees to meet on the third Tuesday in August and select a chairman and vice-chairman, who become members of the "party congressional, senatorial and judicial committees of the district of which their county is a part".

The statutory function at the August meetings of the congressional district committees, which have been chosen at the time of the county committee meetings (Sections 120.800 and 120.810, RSMo.), is for each such committee to elect six members of the party state committee. Obviously, the congressional district committee cannot meet until after the county committee elects its membership, and

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the only definite time limit or restriction on the congressional district committees' action would seem to be the time necessary for transmitting the names of the members which they have elected to the state committee, prior to the second Tuesday in September, the statutory date of their meeting in Jefferson City (Section 120.830).

It thus would seem that the legality of a congressional committee meeting by unanimous consent on a date other than the last Tuesday in August could not be successfully challenged, as long as their function was timely performed; but the mandate of the statute to initially meet on a date certain is obviously designed to provide a dependable notice to interested members of the public, and such a right should be strictly construed.

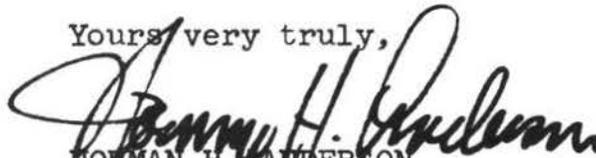
In light of the applicable legal authorities, it therefore seems reasonable to construe the word "shall" in Section 120.820 as mandatory.

CONCLUSION

It is therefore our conclusion that under Section 120.820, RSMo. Supp. 1967, pertaining to political parties, the word "shall" signifies a mandatory requirement that congressional district committees must initially meet only on "the last Tuesday in August after the primary election".

The foregoing opinion, which I hereby approve, was prepared by my assistant, William L. Culver.

Yours very truly,


NORMAN H. ANDERSON
Attorney General