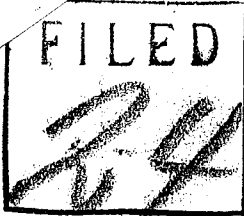


BOARD OF ELECTION COMMISSIONERS:
ELECTIONS:
HOLIDAYS:
VOTERS:
REGISTRATION:

Office of the Board of Election Commissioners for the City of St. Louis may be opened for registration of voters on Sept. 6, 1954, even though that day is a legal holiday. Registrations for an election to be held in the City of St. Louis on Sept. 30, 1954, must be closed at 5 o'clock on Sept. 6, 1954.



August 18, 1954

Board of Election Commissioners
for the City of St. Louis
208 South Twelfth Boulevard
St. Louis 2, Missouri

Attention: Honorable Michael J. Doherty,
Chairman.

Gentlemen:

By letter dated July 14, 1954, you requested an official opinion as follows:

"This Board is in receipt of notice from the City Register of the City of Saint Louis, calling for a Special Election, September 30, 1954.

"We call your attention to Section 118.240, R.S. Mo. 1949, which provides that registration shall close at 5 o'clock P.M. on the 24th day preceding the election. We find that the 24th day preceding the election is Labor Day, September 6th, a Legal Holiday.

"Will you please advise as to whether or not this office may be permitted, under the law, to stay open for such registration on September 6th, or as to whether or not it would be permissible to receive registration on Tuesday, September 7th?"

Section 118.240, RSMo 1949, reads as follows:

"Registration shall be conducted at the office of the board throughout the entire year, except as herein provided,

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upon the usual business days and at the regular office hours and at additional hours in the discretion of the board. The board may also provide for and give notice of other places of registration, as in its judgment the best interests of the service require, which places shall be open for registration at such times as the board may direct. Registration for any election shall be closed at five o'clock p.m. on the twenty-fourth day preceding the election, except municipal elections, when it shall be closed at five o'clock p.m. on the forty-fifth day prior to April election, and no voter shall thereafter be registered prior to said election, except by order of the circuit court on appeal as provided in section 118.410. No voter who is duly registered in compliance with the provision of this chapter shall be required to register again so long as he continues to reside at the address from which he is registered, unless his registration be canceled, as provided for in this chapter."

Turning to your first question as to whether your office may be opened for the transaction of official business on September 6, 1954, it is found that said day is a legal holiday under Section 10.010, RSMo 1949.

"The following days, namely: The first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, the first Monday in September, the eleventh day of November, any general primary election day, any general state election day, any thanksgiving day appointed by the President of the United States or by the governor of this state, and the twenty-fifth of December, are hereby

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declared and established public holidays; and when any of such holidays falls upon Sunday, the Monday next following shall be considered such holiday."

However, the law as to whether business may be transacted on holidays is stated by the Supreme Court of Missouri in Bullock vs. Peoples Bank of Holcomb, 173 S.W. (2d) 753, l.c. 760, to be:

"* * * The fact that a day is made a holiday by statute does not mean business cannot be transacted on that day, except insofar as that statute or some other imposes such restriction. Cartwright v. Liberty Tel. Co., 205 Mo. 126, 131(1), 103 S.W. 982, 983(1), 12 L.R.A., N.S., 1125, 12 Ann. Cas. 249; Stewart v. Brown, 112 Mo. 171, 182, 20 S.W. 451, 453(3); State v. Green, 66 Mo. 631, 644(3); In re Green, 86 Mo. App. 216, 223."

Turning to the statutes it is found that Section 118.040, Paragraph 6, makes the following provision:

"6. The board shall maintain an office, which shall always be kept open during business hours of every day, Sundays and legal holidays (other than election days) excepted."

However, the above merely states when your office must be open, rather than limiting the times at which it may be open. In the absence of any other statute we conclude that your office may be opened for the transaction of official business on September 6, 1954.

In answer to your second question as to whether it would be permissible for the Board to receive registrations on Tuesday, September 7, 1954, it is found that the St. Louis Court of Appeals has in State ex rel. Hay et al. vs. Flynn, 235 Mo. App. 1003, 147 S.W. (2d) 210, l.c. 212, declared that no voter may be registered after the closing day mentioned in the statute, saying:

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"It cannot be denied that the foregoing provisions furnish a very efficient check against fraudulent voting, and to allow names to be entered upon the registration lists subsequent to the close of registration would be to defeat the purpose which the General Assembly had in view in framing the law, and from a consideration of the entire statute, its nature, its object, and the consequences that would result if the provisions of Section 15 were construed as directory, and considering the provisions of Section 15 itself, which are mandatory in form, we are of the opinion that the General Assembly intended the provisions of said section, that no voter should be registered after the closing of registration, to be mandatory."

Since the twenty-fourth day preceding the thirtieth day of September, 1954, is September 6, 1954, we conclude that registrations for the subject election must end at 5 o'clock p.m. on September 6, 1954.

CONCLUSION

It is, therefore, the opinion of this office that the Board of Election Commissioners for the City of St. Louis, may be opened for registration of voters on September 6, 1954, even though that day is a legal holiday.

It is further the opinion of this office that registrations for an election to be held in the City of St. Louis on September 30, 1954, must be closed at 5 o'clock p.m. on September 6, 1954.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Very truly yours,

JOHN M. DALTON
Attorney General

PMcG:irk

BY:

JOHN W. INGLISH
Acting Attorney General