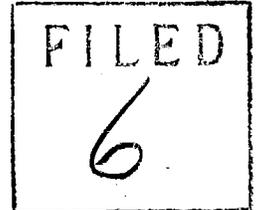


PRIMARY: (1) Notice of primary candidates to
CANDIDATES: be given by Secretary of State
SECRETARY OF STATE: by April 8, 1946.

(2) Last filing date for candidates
for August 1946 primary is April
30, 1946.

January 15, 1946



Honorable Wilson Bell
Secretary of State
Jefferson City, Missouri

Attention: Mr. P. F. Willis, Chief Clerk.

Dear Sir:

In answer to your request for an official opinion inquiring as to the time that the Secretary of State shall prepare and transmit to the various county clerks the notice designating the offices for which candidates are to be nominated in the 1946 primary and the last day upon which a candidate may file a written declaration as a candidate for the August 1946 primary.

Section 11547, Mo. R. S. A. provides:

"The primary shall be held at the regular polling places in each precinct on the first Tuesday of August, 1910, and biennially thereafter, for the nomination of all candidates to be voted for at the next November election."

The above section indicates that the date for the August 1946 primary will be August 6, 1946.

Section 11548, Mo. R. S. A., as amended Laws of 1944, Extra Session, page 24, Sec. 1, provides as follows:

"In the year 1944, at least one hundred days before the time of holding such August primary, and each year thereafter at least one hundred twenty days before the time of holding such August primary, the Secretary of State shall prepare and transmit to each county clerk a notice, in writing, designating the office for which candidates are to be nominated at such primary."

We find additional rules for construing statutes under the provisions of Section 655, Mo. R. S. A., which provides as follows:

"The construction of all statutes of this state shall be by the following additional rules, unless such construction be plainly repugnant to the intent of the legislature, or of the context of the same statute: * * * * fourth, the time within which an act is to be done shall be computed by excluding the first day and including the last, if the last day be Sunday it shall be excluded; * * * * *"

Applying the above sections it is determined that the Secretary of State shall prepare and transmit to each county clerk a notice, in writing, designating the office for which candidates are to be nominated at the August 1946 primary to be held August 6, 1946, on or before the 8th day of April, 1946.

Section 11550, Mo. R. S. A., as amended Laws of 1944, Extra Session, page 24, Sec. 1, provides as follows:

"The name of no candidate shall be printed upon any official ballot at any primary election, unless such candidate has on or before the last Tuesday of April preceding such primary filed a written declaration, as provided in this article, stating his

full name, residence, office for which he proposes as a candidate, the party upon whose ticket he is to be a candidate, that if nominated and elected to such office he will qualify, and such declaration shall be in substantially the following form:

"I, the undersigned, a resident and qualified elector of the (..... precinct of the town of), or (the precinct of the ward of the city of), or the precinct of township of the county of and State of Missouri, do announce myself a candidate for the office of on the ticket, to be voted for at the primary election to be held on the first Tuesday in August,, and I further declare that if nominated and elected to such office I will qualify.

....."

Construing the above section, the last day for filing as a candidate for the August 1946 primary is the last Tuesday of April preceding such primary. Consulting the calendar we find the last Tuesday of April 1946 to be April 30, 1946.

Conclusion

Therefore, it is the opinion of this department that it is the duty of the Secretary of State to prepare and transmit to each county clerk a notice, in writing, designating the office for which candidates are to be nominated in the August 1946 primary, on or before April 8, 1946.

Hon. Wilson Bell

(4)

It is further our opinion that the last day for filing as a candidate for the August 1946 primary is Tuesday, April 30, 1946.

Respectfully submitted,

A. V. OWSLEY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

AVO:CP