



Missouri Attorney General

Opinion No. 372-69

Topics DECLARATIONS OF CANDIDACY FOR CONGRESS.

Summary conclusion

Declarations of candidacy for Congress filed prior to the effective date of new apportionment legislation are a nullity and candidates who have attempted, to file before such date must file after the effective date of the new law in order to be placed on ballots.

Contents of opinion

September 25, 1969

Honorable James C. Kirkpatrick
Secretary of State
State Capitol Building
Jefferson City, Missouri 65101

Dear Mr. Kirkpatrick:

This official opinion is issued in response to your request for a ruling concerning the following question:

Will declarations of candidacy for the United States House of Representatives filed before October 13, 1969, have to be refiled on or after that date, at which time the bill creating new Congressional districts becomes effective?

Enclosed you will find Attorney General's Opinion No. 61 issued December 27, 1961 to George H. Morgan. That opinion concerned the status of declarations filed prior to the effective date of the redistricting of senatorial and representative districts for the Missouri General Assembly made necessary by the 1960 census. At page 2 of that opinion it was said:

" . . . [A]ll of the senatorial and legislative districts in Jackson County went out of existence after the 1960 decennial census with the result that until new districts have been created as provided by law no person may validly file a declaration of candidacy for nomination for senator or representative from any such district,"

We agree with such opinion and we are of the view that it is applicable to the question you pose. The 1967 apportionment law passed by the Missouri General Assembly was held unconstitutional and void by the United States Supreme Court in *Kirkpatrick v. Pressler*, 394 U.S. 526, 22 L.Ed.2d 519, 89 S.Ct. 1225. (1969c). Earlier, however, the United States Supreme Court had expressly authorized the holding of the 1968 congressional elections under the 1967 Act. 390 U.S., 939, 19 L.Ed.2d 1129, 88 S.Ct. 1053 (1968). The effect of the above ruling by the United States Supreme Court was to cause Missouri congressional districts to go out of existence after the 1968 election. This effect is analogous to that of 1960 decennial census discussed in the opinion quoted above. And the result would be the same--until new districts are created (the date the new law becomes effective), no person may validly file a declaration of candidacy for representative in the United States Congress for any district.

CONCLUSION

It is the opinion of this office that declarations of candidacy for

representative in the United States Congress filed prior to the effective date of new congressional district legislation (Senate Bill 392, 75th General Assembly) are a nullity and candidates who attempted to file before such date must file a declaration of candidacy after the effective date of the new law in order to be placed on ballots.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Michael L. Boicourt.

Very truly yours,

John C. Danforth
Attorney General