



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

February 25, 1957

Honorable Zollie C. Steakley
Secretary of State
Capitol Station
Austin, Texas.

OPINION NO. WW-38

Re: Deadline for filing application to appear on the official ballot at the Special Senatorial Election to be held April 2, 1957.

Dear Sir:

You have requested our official opinion on the question of the date of the deadline for filing an application to appear on the official ballot at the Special Senatorial Election for the office of United States Senator to be held April 2, 1957.

Article 4.10 of the Texas Election Code provides with reference to the filing of the application:

"Such application must be filed not later than thirty (30) days before any such special election"

This provision states that no application may be filed after a thirty day period before the date of the special election. This date, in the case which you mention, would be March 2, 1957.

Our interpretation of this statute is substantiated by the case of Murchison v. Darden, 171 S.W. 2d 220 (Tex.Civ.App. 1943, error dismissed). The statute in this case provided that an absentee ballot must be cast not "less than three (3) days, prior to the date of such an election". The court held that this provision meant that three (3) full days must intervene between the end of the last day of the period for casting an absentee ballot and the beginning of the day on which the election was to be held. We think that in the present case this holding dictates that there must be thirty (30) whole days between the ending of the time for filing the application mentioned in Article 4.10 and the beginning of the day set for the special election.

Thus, all applications must be filed not later than midnight March 2, 1957. Attorney General's Opinions R-1164, O-4455, and O-2298, copies of which are here enclosed, also support the above conclusion.

SUMMARY

Application for one's name to appear upon the official ballot at the Special Senatorial Election called for April 2, 1957, must be filed not later than midnight March 2, 1957.

Yours very truly

WILL WILSON
Attorney General

By

John H. Minton, Jr.
John H. Minton, Jr.
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By

B. H. Timmins, Jr.
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JHM:zt

APPROVED:

OPINION COMMITTEE

By H. Grady Chandler
Chairman