

PRIMARY ELECTIONS: Candidates on Socialist ticket can file by paying five dollars to the County Treasurer if no county organization for Socialist party exists in the County.

June 5, 1934.

6-5



Hon. Emil F. Helmendach  
Clerk of the County Court  
Franklin County  
Union, Missouri

Dear Mr. Helmendach:

This department acknowledges receipt of your letter of May 26, 1934, requesting an opinion of this office on the following matter:

"We have in this county a man who is to file for State Representative in the Legislature on the Socialist ticket. The Socialist party has no organization in this county; therefore, I should like to know how to proceed in taking this man's declaration. If he should pay the regular filing fee into the county treasury, should his name be placed on the Socialist ticket even though there is no county organization?"

I should like to know just how to handle this man's candidacy and thank you in advance for an opinion of the legal way to do so."

Section 10257 R. S. Mo. 1929, reads as follows:

"The name of no candidate shall be printed upon any official ballot at any primary election, unless at least sixty days prior to such primary a written declaration shall have been filed by the candidate, 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 \_\_\_\_\_ ) 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.

(Signed) \_\_\_\_\_."

The following Section 10258 R. S. Mo. 1929 reads as follows:

"Each candidate, except for a township office, previous to filing declaration papers, as in this article prescribed, shall pay to the treasurer of the state or county central committee of the political party upon whose ticket he proposes as a candidate and seeks nomination, a certain sum of money, as follows, to-wit: To the treasurer of the state central committee--one hundred dollars, if he becomes a candidate for a state office, or judge of either of the courts of appeals; fifty dollars, if he be a candidate for representative in congress; twenty-five dollars, if he be a candidate for circuit judge or state senator. To the treasurer of the county central committee--five dollars, if he be a candidate for state representative or any county office; \* \* \* \* \*

You state in your letter that the Socialist party has no county organization, hence, there is apparently no one to whom the Five Dollar filing fee can be paid. We must therefore be guided by Section 10259 R. S. Mo. 1929 which is as follows:

"Any person desiring to file declaration papers, or propose as a candidate on any independent or nonpartisan ticket, who does not announce by declaration papers as a candidate for any political party as defined by this article, and is not a member of a political party having a state and county committee, or treasurer thereof, shall pay the sum of money required by this article to be paid by the candidate for the office for which he proposes to the state or county treasurer, as the

June 5, 1934.

case may be; take a receipt therefor, and file said receipt with his declaration papers; said sum of money, so paid, shall go into the general revenue fund of the State or county."

CONCLUSION.

It is the opinion of this Department that you should accept the candidate's declaration on the form as set out in Section 10257; that he should pay the required fee of Five Dollars (\$5.00) as directed in Section 10258, and should pay the same to the County Treasurer and file his receipt with the declaration papers as directed in Section 10259. Said Section 10259 contains the phrase "and not a member of a political party having a state or county committee or treasurer thereof," and hence, as the statutes say, in that event the filing fee should be paid to the County Treasurer. If the candidate complies with the above sections he is entitled to have his name printed upon an official ballot designating his party the same as other candidates whose names are printed on the official ballot of the major parties.

Respectfully submitted,

OLLIVER W. NOLEN,  
Assistant Attorney General.

APPROVED:

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ROY McKITTRICK,  
Attorney General.

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