

ELECTIONS:) Not necessary to print ballots for Socialist and Socialist-
PRIMARY:) Labor parties in City of St. Louis, where there are no
contests; having cast less than 5% at last election for
Governor.

June 9, 1936. 6-10



Mr. Alfred L. Rottman
Chief Assistant
Board of Election Commissioners
St. Louis, Missouri

Dear Sir:

This is to acknowledge receipt of your letter of request for an opinion, which letter is as follows:

"Under authority of Section 10267a (page 67, Election Laws of 1933-1934) this Board printed no Socialist and Socialist-Labor Ballots at the Primary Election held August 7, 1934; these parties having cast less than 5% of the total vote cast for Governor in 1932, and not more than one person having filed as a candidate for any office on such party tickets.

Again, at the coming primary election, there may be no contest for any offices on such party tickets. The situation differs, however, in that party committeemen and committeewomen are to be elected (Sections 10278 and 10278a, pages 66 and 67, Election Laws of 1933-1934) and we are in doubt as to whether or not ballots must be provided. Please give us your opinion in the following instances:

- 1 - Should not more than one person file for election as committeeman and committeewomen, respectively, must ballots be printed for such parties?

- 2 - Should no persons declare themselves candidates for Committeeman and Committeewoman, the law provides the voter may write in the name of a man and for such offices. Must ballots, therefore be provided?"

In your letter of request you have called our attention to three sections of the statute bearing on the questions asked in your letter, and request our interpretation of same.

Section 10278, R. S. Mo. 1929, provides for the election of a committeeman and committeewoman of the township or voting district at the August Primary in the even-numbered years by writing in in the space left for that purpose on the ballot the names of a man and a woman, qualified electors of the precinct, or voting district, as the case may be, and said section further provides that qualified electors may have their names printed on the ballot for committeeman and committeewoman by complying with the provisions of Section 10257, R. S. Mo. 1929, in other words, may file for committeeman or committeewoman.

Section 10278a, enacted at the 1931 Session of the General Assembly and shown at page 209, Laws of Missouri, 1931, provides for the election at the next August Primary and every four years thereafter in all cities in this State which now have, or which may hereafter have 500,000 inhabitants or more, committeemen and committeewomen. And it further provides that each voter may write in the space left on the ballot for that purpose the names of a man and woman, qualified electors of the ward for committeeman and committeewoman for such ward, and the man and the woman receiving the highest number of votes in such ward shall be the members of the party committee for the city for which such ward is a part and shall hold office for a period of four years from and after the date of such primary and until their successors are duly elected and qualified. Candidates for committeeman and committeewoman, under this section, may file declaration of candidacy the same as other candidates may do for offices by complying with the provisions of Section 10257, supra, and by paying to the treasurer of the party committee of the city of which such ward is a part the sum of \$100.00, which shall be evidence of their good faith.

It is therefore seen that in the City of St. Louis, in each presidential year, the committeeman and committeewoman may be selected in the manner therein provided and the man and the woman receiving the highest number of votes in such ward shall be the members of the party committee of the city whether he or she is a write-in candidate or a regularly filed candidate.

The 1933 General Assembly, Laws of Missouri, 1933, page 238, added the following section to Chapter 61, Article 5, R. S. Mo. 1929, known as Section 10267a, which section provides as follows:

"Whenever any person shall have filed as a candidate for nomination upon a party ticket which, at the last preceding election for Governor, shall have cast less than 5 per cent of the total vote cast for Governor in such election, and when not more than one person shall have filed as a candidate for any office on such party ticket, no ballot shall be printed for the primary election as herein provided unless upon petition of at least 10 per cent of the voters voting in the county at said preceding election for Governor. When no ballots are printed as hereinbefore provided, the candidates filing declarations and who are unopposed shall be certified, as by this chapter provided, as the nominees of such party casting less than 5 per cent of the vote of the state."

Coming now to the questions asked in your letter: First; Should not more than one person file for election as committeeman and committeewoman, respectively, must ballots be printed for such parties?

We assume, of course, that you have reference to the parties, namely, Socialist and Socialist-Labor parties mentioned in your letter. Under the provisions of Section 10267a, supra, a person who shall have filed as a candidate for nomination upon a party ticket which shall at the last preceding election for governor have cast less than five per cent of the total vote cast for governor in such election, and when not more than one person shall have filed as a candidate for any office on

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such ticket, no ballot shall be printed for the primary election as herein provided, unless upon a petition of at least ten per cent of the voters voting in the county at said preceding election for governor. Persons filing as candidates under the provisions of this section, having no opposition, are certified as nominees of such party without party tickets being printed for same.

Replying, therefore, to your first question, we are of the opinion that if not more than one man and woman shall file as a candidate for committeeman and committeewoman for the minor party groups aforesaid, one of each to be selected, it will not be necessary to print ballots merely to permit voters to write in names for committeeman and committeewoman respectively, assuming that there are no contests for other offices on said tickets.

And replying to the second question asked in your letter, that where no persons declare themselves candidates for committeeman and committeewoman, coming within the provisions of Section 10267a, supra, where it has not become necessary to print ballots by reason of no contest, we do not deem it necessary to print ballots solely for the purpose of permitting electors belonging to the respective parties aforesaid writing in the names of persons for committeeman and committeewoman in those wards where there are no contests for other offices.

We think it was the intention of the Legislature by Section 10267a, supra, to dispense with the printing of primary ballots for parties casting less than five per cent of the total vote cast for Governor where there are no contests for any offices, and where no one files for committeeman or committeewoman for those parties, likewise there is no contest. It would seem to us to be illogical to cause ballots to be printed merely to permit voters to write in names for committeeman and committeewoman.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney-General

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