

POLITICAL PARTY COMMITTEE: Action of individual members of committee not taken at a committee meeting is invalid.

October 28, 1938

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Mr. Morgan M. Moulder  
Prosecuting Attorney  
Camdenton, Missouri

Dear Sir:

We have your letter of October 27, 1938, asking for an opinion of this office, which letter reads as follows:

"There existed on the Republican ticket a vacancy for the office of Constable of Russell Township. Eight of the fourteen individual members of the Central Republican Committee of Camden County, Missouri signed and certified the nomination of one Lester Woodall to fill said vacancy. The signatures of said members of said Committee were obtained at their homes in various parts of the county and while they were not in meeting as a Committee. The Central Republican Committee of Camden County did not while in meeting as a Committee certify and nominate Lester Woodall as the Republican nominee for Constable of said township, but more than a majority of the individual members of the Committee signed the certificate of nomination and the same was filed with the Clerk of the County Court.

Can the members of a political party committee certify nominations to fill vacancies while they are not meeting together as a body and as a committee?

The Clerk of the County Court informs me that he has caused the name of Lester Woodall to be printed on the sample ballots and in the publication notices of the election.

If said certificate of nomination, signed by the individual members of the Republican Committee, when they were not in session as a committee, is invalid, then what would you advise the Clerk of the County Court to do?"

In answer to your request beg to say that we have been unable to find any authority or court decision either from this State or any other, directly passing on the proposition you state. Hence, it is necessary to resort more or less to fundamental principles and analogies.

Where a committee is provided for consisting of a multiple number of individuals we take it that a committee action comprehends a meeting of the individuals of the committee at some time and place whereby they can interchange ideas and discussions upon whatever matter or proposition is before them, and reach a result by vote or other indication, and the result is the action of the committee as a collective group and not as individuals who make up the committee.

We note that by Section 10240 R.S. Missouri 1929, with reference to persons nominated at a primary election who thus become nominees eligible for election, a certificate of nomination is required to be made out and executed by the presiding officer and secretary of the political committee of the nominee's party, for use by the county clerk in publishing notice thereof.

Section 10268 R.S. Missouri 1929, provides for filling of vacancies both before and after a primary by the party committee. We are disposed to believe that the action by the party committee in designating a party nominee by reason of occurring vacancy operates the same as if a party had been nominated by a primary, and that consequently a certificate of nomination is as much required under Section 10268 as is required under the aforesaid Section 10240, and that consequently a certificate of nomination signed by individual members of the committee, even though it be to the extent of a majority, is not conforming to the statutory requirements which call for

such certificate to be signed by the presiding officer and secretary of such committee.

We do not believe that committee action can be taken unless the members thereof, or at least a majority of them, meet at some designated place within the territorial limits that they are entitled so to meet.

We believe an analogous situation presents itself with reference to school boards which in fact are nothing more or less than committees elected by the residents of particular school districts, and which persons when so elected are legally denominated school directors or school board members. It is well established that a school board action cannot be taken unless the constituent members of such board meet and collectively act as a school board or board of directors. In this connection we cite you the case of Decker vs. School District No. 2, 101 Mo. App. 1. c. 119, wherein the Court said:

"The evidence conclusively shows that, in making the settlement of plaintiff's account with him, they did not act individually but collectively and as the board of directors of the school district, and we think the district is conclusively bound by their action on that occasion."

It is to be seen that the Court in the above case noted that the members concerned did not act individually but on the other hand collectively, which we believe is an indirect way of saying that the school board in the case could not have legally acted as individuals.

#### CONCLUSION

It is our conclusion that the individual action of the members of the Republican Committee of Camden County in nominating one Lester Woodall as Republican nominee for constable is

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invalid and the Clerk of your Court would not be justified in having such name printed on the ballot for the coming election.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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