

ELECTIONS: Voters may write in name of committeeman although declarations have been filed and candidates' names appear on ballot.

June 12, 1940

6-13

Honorable J. D. Gillespie
County Clerk
Oregon County
Alton, Missouri



Dear Sir:

We are in receipt of your request for an opinion, dated June 10, 1940, which is as follows:

"I will thank you very much if you will advise me on the following matter.

IN THE MATTER OF FILING TOWNSHIP COMMITTEEMAN AND COMMITTEEWOMEN.

1. In the event no one files for Township Committeeman or Committeewoman, is it legal for the Chairman of the Central Committee to make up a list to be filed with the personal signature of the party to be filed.
2. In case someone files in any one township, and someone else's name is written on the ticket by the voters and receives a greater number of votes, is the party's name that was written in and received a greater number of votes allowed to qualify and declared elected as a Committeeman or Committeewoman?"

In answer to your first question, there is only one procedure prescribed by our statutes for filing as a candidate for township committeeman. The last sentence of Section 10278, R. S. Mo. 1929, is as follows:

" * * * Provided, that any qualified elector in any such voting precinct or district may have his or her name printed on the primary ballot, or party ticket on which he or she may desire to become a candidate for committeeman or committeewoman by complying with the provisions of section 10257."

Section 10257, R. S. No. 1929, to which we are referred by the foregoing section, is 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) _____"

Any attempted filing of the declaration of a candidate is invalid unless in the form above prescribed by statute, or unless it contains all the elements of that form, so that a mere list, as suggested in your first question, filed by your county chairman, which does not substantially comply with Section 10257, is not a proper filing, and such candidate is not entitled to have his name printed on the ballot.

It is our conclusion, therefore, that to be entitled to have his name printed on the official ballot in the August primary, a candidate for committeeman must have substantially complied with the requirements of Section 10257, R. S. No. 1929, as to the form of his declaration.

As to your second question in regard to the election of one receiving a greater number of ballots by the "write-in" method, although another candidate had duly filed his declaration and been listed on the ballot, we refer you to Section 10278, R. S. No. 1929, which is as follows:

"At the August primary each voter may write in the space left on the ballot for that purpose the names of a man and a woman, qualified electors of the precinct, or voting district as the case may be, for committeemen for such township, or voting district, and the man and the woman receiving the highest number of votes in such township, or election district, shall be the members of the party committee of the county, or in the case of a city not within the county, of the city of which such voting precinct, or district is a part: * * * "

Plainly, the man and woman receiving the highest number of votes in any township are to be

June 12, 1940

declared elected as committeeman and committeewoman, respectively, regardless of whether his or her name is printed on the ballot, and regardless of the fact that the name of some other candidate may appear on the official ballot.

It is the conclusion of this office that the person receiving the greater number of votes for committeeman or committeewoman in any township is to be elected without regard to the name or names appearing on the ballot in its printed form.

Respectfully submitted,

ROBERT L. HYDER
Assistant Attorney General

APPROVED:

COVELL R. HEWITT
(Acting) Attorney General

RLH:VC