

ELECTIONS: Creation of Ward 21 in that part of Kansas
COMMITTEEMEN: City located in Clay County creates vacancy
COMMITTEEWOMEN: in ~~commission~~ of committeemen and committee-
women in such ward of county central committee
of Clay County. Governor can fill vacancies
upon official advice that Ward 21 has been
created by Election Board of Kansas City.



February 18, 1952 2-19-52

Honorable Robert G. Kirkland
Prosecuting Attorney
Clay County
Liberty, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting a supplemental opinion of this department relative to committeemen and committeewomen in Ward 21 of Kansas City, Missouri, located in Clay County, Missouri. Your letter reads as follows:

"Thank you very much for forwarding the opinion concerning additional committeemen and committeewomen in Clay County.

"The point has been raised that not all of the questions asked have been answered by your opinion. The Democratic committee desires the appointment of these additional members now pending the election. They have been informed by the Governor's office through Mr. Kirkpatrick, I believe, that the Governor will appoint those they recommend upon the furnishing of some kind of proof showing that they are entitled to such. They desire to know if this can be done, and, if so, what proof it is that the Governor's office requires.

"Evidently my questions were not clear and I do not know if they are yet. The point appears to me to be whether or not they can get these additional members appointed now, and, if so, how they can go about getting it done. I would appreciate it if you could enlighten us on these points."

Hon. Robert G. Kirkland

In the case of State on Inf. Taylor v. Kiburz, 203 S.W. 2d 285, the Supreme Court in discussing the question of when a vacancy arises when a job is created, said l.c. 290:

" * * * In State ex rel. Brown v. McMillan, 108 Mo. 153, 159, 18 S.W. 784, 785, it was said: 'We think that both authority and the spirit of our institutions favor the view that when an office is created, and no restrictions for filling the vacancy are imposed, a vacancy arises ipso facto.'"

Since we have already ruled in our previous opinion to you, to which you refer, that the creation of Ward 21 entitles such ward to be represented by a committeeman and a committeewoman on the Clay County central committee, we believe it to be clear that the creation of such ward also creates a vacancy in the offices of committeemen and committeewomen from such ward.

We are enclosing copy of an official opinion of this department rendered under date of June 30, 1950 to Honorable Forrest Smith which holds that the governor at present has the power to fill vacancies in the office of committeemen and committeewomen. Therefore, the governor at present has the power to fill the offices of committeemen and committeewomen from Ward 21 of Kansas City.

Since the creation of Ward 21 created the vacancies in such office, the only proof necessary to show that such vacancies exist would be a copy of the designation of Ward 21 by the Board of Election Commissioners of Kansas City, which board had power under the law to designate and bring into being such ward.

CONCLUSION

It is the opinion of this department that there is a vacancy in the offices of committeemen and committeewomen from Ward 21 of Kansas City, located in Clay County, Missouri, and that the governor may fill such vacancies by appointment. It is the further opinion of this office that the designation by the Kansas City Board of Election Commissioners of Ward 21 as a separate ward of Kansas City is a sufficient authority to authorize the governor to make such appointments.

Respectfully submitted,

APPROVED:



J. E. TAYLOR
Attorney General

C. B. BURNS, JR.
Assistant Attorney General