

COUNTY COMMITTEES:
VACANCIES:
PRIMARY ELECTIONS:

Vacancy created in a county committee by a tie vote is filled by a majority of the new county committee electing a qualified person to fill such vacancy.



September 3, 1954

Honorable Wm. T. Bellamy, Jr.
Prosecuting Attorney
Saline County
Marshall, Missouri

Dear Sir:

This will acknowledge receipt of your letter of August 9, 1954, requesting an opinion of this office on the following question:

"In the recent primary election held August 3, 1954, two candidates for Republican committeeman for Salt Fork Township of this county tied, each receiving seven votes, and two candidates for Democratic committeewoman of the same township (one of whom was a write-in candidate) tied with 51 votes each. I have had propounded to me the question as to whether the old county committee, that is, the committee which served prior to the election of August 3rd, or the county committee election on August 3rd, is the proper committee to fill these vacancies existing because of the aforementioned tie vote. * * *"

Section 120.783 RSMo Cum. Sup. 1953 provides as follows:

"120.783. Where candidates tie, vacancy on committee exists.--When two or more candidates for election as a party committeeman or committeewoman receive an equal number of votes and a higher number than any other candidate, a vacancy shall

Honorable Wm. T. Bellamy, Jr.

be deemed to exist on the party central committee, and shall be filled by the committee in the same manner as other vacancies are filled."

And Section 120.787 RSMo Cum. Sup. 1953 provides:

"120.787. Vacancies on county committee, filled, how.--Whenever any vacancy shall occur on the county central committee of any political party, a majority of the committee shall have power to fill such vacancy by electing any qualified voter of such political party who resides in the township or voting district to be represented."

In the above two sections, it appears that a tie vote for committeeman or committeewoman creates a vacancy in the party central committee and that such vacancy is to be filled by the majority of the committee electing a qualified person therefor. Your problem seems to be whether the old committee, in existence before the primary election, or the new committee elected at such primary election is the proper body to fill this vacancy. It seems clear that the new committee, elected at the primary election, which in this case was held on August 3, 1954, is the proper body to fill this vacancy. No vacancy exists in the old committee and it appears from the statutes that it is contemplated that it is the majority of the committee upon which there is a vacancy that shall exercise the function of filling such vacancy.

Section 120.750 RSMo 1949 provides in part:

"That for the purpose of making nominations to fill vacancies resulting from death or resignation and not otherwise, on a ticket previously nominated a majority of all the members-elect of a central committee shall be necessary to take action."

Since this refers to vacancies on a ticket, it does not govern the question here involved. Likewise, the vacancy here involved was not created by death or resignation, and the statute specifically provides that that was the only situation which it covers.

CONCLUSION

From the foregoing, it is the conclusion of this office that in answer to your question, it will be the duty of the majority

Honorable Wm. T. Bellamy, Jr.

of the county committee elected at the primary held on August 3, 1954, to fill by election the two vacancies created by the tie vote in the race for Democratic committeewoman and Republican committeeman.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Fred L. Howard.

Very truly yours,

JOHN M. DALTON
Attorney General

FLH:sm