

POLITICAL COMMITTEE:
PARTY COMMITTEE:

Officers chosen by county committee under Section 120.800 RSMo., 1959, are elected for an indeterminate term.

April 12, 1961



Honorable John R. Johnson
Missouri Senate
State Capitol Building
Jefferson City, Missouri

Dear Senator Johnson:

In your letter of February 21, 1961, you made the following request:

"I would appreciate receiving your official opinion regarding Section 120.800, R.S.Mo. 1959."

"I would like to know whether or not the County Chairman of a political party committee is elected for a specific term of office."

Section 120.800 RSMo. 1959 provides:

The county committee, or city committee, as the case may be, shall be composed of the committeemen and committeewomen elected in the several townships, or voting districts, at the August primary next preceding and shall meet at the county seat of the several counties of this state, and at such place in any city not within a county as the chairman of the then existing city committee may designate, on the third Tuesday in August of the year in which the primary election is held, and organize by the election of one of its members as chairman and one of its members as vice-chairman, one of whom shall be a woman, and a secretary and a treasurer, one of whom shall be a woman, but who may or may not be members of the committee. The county chairman and vice-chairman so elected shall by virtue thereof become members of the party congressional, senatorial, and judicial committees of the district of which their county is a part."

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A question similar to the one you submit was before the Supreme Court in State ex rel Henry W. Kiel, et al. v. George W. Reichmann, et al, 239, Mo. 81, 142 S.W. 304. In that case the several members of the party committee, having received their certificates of election on August 2, 1910, met on August 9, 1910 and elected a chairman, vice-chairman, secretary, treasurer, and sergeant-at-arms. These officers continued to hold their office until their offices were declared vacant by a majority of the committee and new officers were elected. The Court had under consideration Section 5880 R.S.Mo. 1909 which provided for the election of Committeemen at the August primary. Said section further provided:

"* * * Each county committee, composed of the various ward and township committeemen, shall meet at the county seat of such county on the first Tuesday after the said August primary, and organize by the election of one of its members as chairman, and by electing a secretary and treasurer, who need not be members of said committee, and the chairman so elected shall, by virtue thereof, become a member of the party congressional senatorial and judicial committee, of the district of which his county is a part, * * *".

In construing Section 5880, supra, the Court said, l.c. 94-95:

"Nor in our judgment does the statute contemplate a two year undeterminable tenure by the officers of the committee. Section 5880, Revised Statutes 1909, says that the committee shall elect officers, on the Tuesday after the August Primary. It fixes no term nor tenure. * *"

"* * The law making power had no desire to strip party committees of all the power formerly possessed by them, but only of such powers as would best subserve the public interest in honest primaries and elections. Such political committee ought to have the right to change its officers. The political work of such committee might be stifled by unruly officials. The statute never contemplated that if the committee concluded that a mistake from a party standpoint had been made in the selection of a certain officer, such mistake could not be reached by the proper action of the committee. In other words, these laws were not intended to prevent party committees from doing active and efficient service for their respective parties, and to that end have officers thoroughly in harmony with the majority of such committees, but such laws were enacted solely for the purpose of securing, through the good offices

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of the State, absolute fairness and honesty in the selection of committeemen and in the action of the committee in so far as it came in contact with the State's election officials and machinery. * * *"

The court further held that a majority of the duly constituted committee members can transact business of the committee and that their action in removing the officers previously elected and electing other officers are within their authority.

Section 120.800, supra, in so far as it provides for the election of officers is in substantially the same language as Section 5880, supra, in that regard and we believe the decision of State ex rel Kiel, et al v. Reichmann, supra, would be followed and is controlling on a construction of Section 120.800, supra.

CONCLUSION

It is the opinion of this office that officers elected as provided in Section 120.800, R.S.Mo. 1959 are not elected for a specific term of office but may be replaced by a majority of the committee.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

MM:bv