

TOWNSHIP OFFICES: Candidates for township offices and
CANDIDATES: committeemen and committeewomen not
ELECTIONS: required to pay fee for filing de-
claration papers.

August 23, 1938

Board of Election Commissioners
St. Louis County
Clayton, Missouri



Attention: Mr. Jack D. Dean

Gentlemen:

We have received your letter of August 12 which reads in part as follows:

"During the recent campaign, it seems that Circuit Judge Peter Barrett, discovered a case where the Committeemen and Committeewomen were required to pay a filing fee of \$5.00 with their Declarations; as well as the Justices of Peace and Constables.

"This information was conveyed to the majority of the people filing for the above offices. The result was that in most cases the filing fee was paid to the Central Committee.

"At a recent Committee meeting, I was requested as the Chairman of the Committee to get an opinion from you, as to whether or not it will be required in the future that this filing fee of \$5.00 be paid by all those seeking the office of Committeemen and Committeewomen, Justices of Peace

and Constables.

"I would appreciate an opinion from you at your earliest convenience. In the event your opinion is that it is necessary for the Committeemen and Committeewomen to pay into the Treasury of the County Committee the fee of \$5.00, at the time their Declarations for office are filed; those who fail to pay their filing fee, in spite of this fact, and their names are printed on the Ballot by the Election Commissioner, and in turn they are elected to the office they sought: Are they or are they not qualified to receive from the Election Board a certification of Election. * * * * *"

It is clear that the offices of Justice of the Peace and Constable are township offices.

As to Justices of the Peace Sec. 2136 R. S. Mo. 1929 states:

"Each municipal township, except as otherwise provided by law, shall be entitled to two justices of the peace, to be elected and commissioned in the manner hereinafter provided; * * * * *"

In the case of Carpenter v. Roth, 192 Mo. 658, l.c.669 the court said:

"Cities do not elect justices - strictly speaking there is no such a thing as a justice in a city except possibly in St. Louis. Justices are municipal township officers."

In connection with the office of constable Sec. 11748

R. S. Mo. 1929 provides in part that:

"At the general election to be held in 1920, and at each general election every two years thereafter, the qualified voters of each township in every county in this state shall elect a constable, who shall be a resident of the township for which he is elected, and who shall hold his office for two years and until his successor be elected and qualified; * * * * *."

We are of the opinion, therefore, that the offices of justice of the peace and constable which are filled by the townships exclusively, can only be classified as township offices. These offices are in fact so designated by the statutes quoted above.

Sec. 10258 R. S. Mo. 1929 is the only statute which might in any sense be applicable relative to deposits by candidates previous to the filing of declaration papers. This statute provides that:

"Each candidate, except for a township office, previous to filing declaration papers, as in this article prescribed, shall pay to the treasurer of the state or county central committee of the political party upon whose ticket he proposes as a candidate and seeks nomination, a certain sum of money, as follows, * * * * *."

We observe therefore that the above statute by express wording exempts candidates for township offices from its provisions requiring certain amounts in connection with each office to be paid to the treasurer of the state or county central committee.

Sec. 10278 R. S. Mo. 1929 in connection with the election of committeemen and committeewomen reads 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: 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, R.S. 1929. (Laws 1923, p. 197, Sec. 1.)"

The effect of the above section is that there is to be no primary election for the purpose of nominating candidates for the offices of committeemen and committeewomen to be voted on at a subsequent general election. Committeemen and committeewomen are elected at the primary election. The names of such candidates for election may, however, be placed on the ballots by complying with said section 10257, which provides how and when the declaration shall be filed and what it shall contain.

Section 10258 R. S. No. 1929 provides that certain amounts shall be paid by each candidate, previous to filing declaration papers, to the treasurer of the state or county central committee of the political party upon whose ticket he proposes "as a candidate and seeks nomination." In other words this statute contemplates that only those candidates who are seeking a "nomination" shall be required to pay any such fee. It makes no such requirement of those seeking only election and not a nomination.

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We can therefore only arrive at the conclusion that candidates who file declarations for election to the offices of committeemen and committeewomen are not required to pay any fee whatsoever to the treasurer of the proper party committee; that such requirements are intended only for those candidates seeking a nomination for a party office.

Apparently you have in mind Section 10278a found in the Laws of Missouri, 1937, p. 233. This section is not applicable to St. Louis County. It provides that any qualified elector in any ward of a city containing five hundred thousand inhabitants or more 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 filing a declaration and "by paying to the treasurer of the party committee of the city of which such ward is a part the sum of One Hundred Dollars (\$100.00) * * * * *." This statute further provides that "in all counties in this state containing a city of the first class, the sum of Five Dollars (\$5.00) * * " shall be paid to the treasurer of the party committee.

St. Louis County does not contain a city having a population of five hundred thousand inhabitants or more. Neither does St. Louis County have within its borders a city of the first class. Consequently Section 10278a is not applicable.

Conclusion

The offices of justice of the peace and constable are township offices and therefore candidates for such offices are not required to pay any amount to the treasurer of the state or county central committee of the political party to which any such candidate might belong as a preliminary to filing declarations for such offices. Committeemen and committeewomen are likewise not required to pay any such fees because

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they are seeking to be elected and not nominated. Section 10258 R. S. Mo. 1929 provides only that such fee shall be paid by candidates seeking a "nomination."

Respectfully submitted

J. F. ALLEBACH
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APPROVED:

J. E. TAYLOR
(Acting) Attorney General

JFA/w