

COUNTY POLITICAL PARTY COMMITTEE:

A majority of the county committee, when duly called and acting, has right to transact all business for entire body.
When committee fails to have quorum, any action except that of adjournment is not binding.

January 8, 1945



Honorable Sam M. Wear
State Chairman
Democratic State Committee of Missouri
Jefferson City, Missouri

Dear Sir:

We are in receipt of your request for an opinion from this department, which request reads as follows:

"Enclosed find a communication which I have just received from George J. Sick, Chairman of the St. Louis County Democratic Committee, relative to a situation which has arisen in his county committee concerning which he requests an opinion of your department.

"I will be deeply grateful if you will look into these two questions and let me have your opinion regarding same at the earliest possible moment.

"I also will appreciate it if you will forward a copy of your opinion directly to Mr. Sick at 557 Ridge Avenue, Webster Groves, and also send a copy to me at State Headquarters here."

(The letter above referred to is attached and marked Exhibit A.)

Our courts have had very little to do in controversies connected with the functions of political committees. It is my understanding that the St. Louis County Committee has no by-laws, rules or regulations adopted. However, the rule seems to be that, unless there be some specific law to the contrary, a majority of a given body has the right to transact all business which the entire body is authorized

to do and a majority vote of those present and voting (there being a majority participating) can do all the things which could be done by the entire body. This was the common law rule and is changed only by some express provision. The theory is that the majority is the body itself for the transaction of business, and inasmuch as the statutes of this State have not prescribed what number shall constitute a quorum for the transaction of business by this committee, the common law fixes a quorum of such committee at a majority of its members. Such quorum has the full power of the whole committee, and for the purposes of transacting business is in law the committee itself, and if in the transaction of any business a majority of that quorum votes for a measure such measure is as valid and binding as if adopted by the entire vote of the committee.

In this connection we are guided by what the court had to say in the case of State ex rel. v. Riechmann, 239 Mo. 81, l.c. 94-95:

"Nor in our judgment does the statute contemplate a two-year undeterminable tenure by the officers of the committee.
* * * * *

" * * * * * 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 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. * * * * *"

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With reference to the second question in Mr. Sick's letter, it appears that after a vote to declare the seats of chairman and vice-chairman vacant, which apparently carried, the offices of chairman and vice-chairman were vacated by this order of business. Then it appears that four of the members present walked out and refused to participate further in the meeting. This brought about a failure to have a quorum present (a majority of the committee), and under such circumstances we follow the rule which is stated clearly in Robert's Rules of Order, p. 135:

"Whenever during the meeting there is found not to be a quorum present, the only thing to be done is to adjourn; though, if no question is raised by it, the debate can be continued, but no vote taken, except to adjourn."

It is, therefore, the opinion of this department that when the meeting of November 20, 1944 adjourned at the time the committee failed to have a quorum any action taken after that is void and not binding; that no officers can be elected until there is a proper call for a meeting for the purpose of electing officers at which meeting a quorum appears and a majority of that quorum votes for the new officers.

May I suggest that you, as State Chairman, call a meeting and see that all the members of the St. Louis County Committee hold a meeting for the specific purpose of electing officers, adopting by-laws and promoting harmony.

Yours sincerely,

Roy McKittrick
Attorney General

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