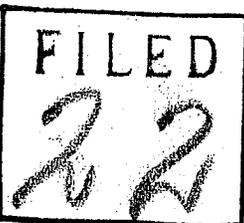


ELECTIONS:  
VACANCY:  
COUNTY POLITICAL  
COMMITTEE:

When a vacancy by reason of death or withdrawal in the candidates for election for township committeeman or committeewoman occurs after the last day for filing for such position and before the day of election, the county political committee is not authorized to fill such vacancy.



July 19, 1954

Honorable Robert A. Dempster  
Prosecuting Attorney  
Scott County  
Sikeston, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"I have been requested to obtain an opinion from your office on the following matter.

"In the case of a person filing declaration of candidacy for township committeeman under Section 120.340 for election to such committee post at the August Primary election, and who dies prior to said Primary, can the political committee of his party nominate or certify to the county clerk the name of some person, to replace the name of the deceased person, and have same printed on the August Primary Ballot for election along with other committee members.

"Since members of the county political committees are elected at the Primary and the instance referred to is not a vacancy in a nomination, we desire to know if the political committee has authority to replace the name of the deceased person and the county clerk the authority to print the name of such replacement on the regular ballots for the Primary Election.

"Due to the shortness of time remaining for the printing of the official ballots, an early response will be appreciated."

After a careful examination of the laws of Missouri in this matter, we are of the opinion that, in the circumstances set forth

Honorable Robert A. Dempster

by you, the county party committee is not authorized to fill the vacancy which exists. This matter of filling a vacancy by act of a county party committee is set forth in Section 120.550 RSMo., Cum. Supp. 1953, which reads:

"Party committee to make nominations, when.-

1. The party committee of the county, district or state, as the case may be, shall have authority to make nominations in the following cases:

"(1) When a vacancy in the candidates for nomination as a party candidate for election to any office shall occur by reason of death or resignation after the last day in which a person may file as a candidate for nomination.

"(2) When any person nominated as the party candidate for any office shall die or resign before election.

"(3) When a vacancy in office which is to be filled for the unexpired term at the following general election, shall occur after the last day in which a person may file as a candidate for nomination.

"2. Nominations to fill such vacancies shall be filed, as the case may be, either with the secretary of state not later than fifteen days before the day fixed by law for the election of the person in nomination or with the election authority not later than ten days before such election.

"3. No name shall be allowed on the ballot until the required fee has been paid. (A.L. 1953 S.B.272)."

We do not believe, however, that the above section is applicable to your situation, because it refers only to filling a vacancy for the nomination to an office, whereas township committeemen and committeewomen who are voted on at the August primary are not nominated but are elected at the August primary, which, so far as they are concerned, is an election.

We would point out that committeemen and committeewomen may be elected according to the provisions of Section 120.770 RSMo 1949, which reads:

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"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 of which such voting precinct or district is a part. 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 120.340 and, in all counties in this state now or hereafter containing a city of the first class, by also paying the sum of five dollars to the treasurer of the county committee of the party on whose ticket he or she seeks election."

We would further point out that if no names are written in, as is above provided, that after the primary the vacancy may be filled by the county political committee according to the provisions of Section 120.787, RSMo. Cum. Supp. 1953, which reads:

"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."

#### CONCLUSION

It is the opinion of this department that when a vacancy by reason of death or withdrawal in the candidates for election for township committeeman or committeewoman occurs after the last

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day for filing for such position, and before the day of election, that the county political committee is not authorized to fill such vacancy.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Very truly yours,

HPW/ld

JOHN M. DALTON  
Attorney General