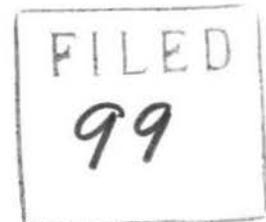


February 3, 1971

Answered by Letter - Klaffenbach
OPINION LETTER NO. 99



Honorable Ray S. James
State Representative
Fifth District
Room 202A, Capitol Building
Jefferson City, Missouri 65101

Dear Representative James:

This letter is in response to your opinion request in which you ask whether the State Committee of a political party in Missouri has the authority to determine the qualifications of its members.

Section 120.820, RSMo 1969, provides:

"The members of each congressional district committee as so chosen shall meet at some point within the district, to be designated by the then chairman of the congressional committee, on the last Tuesday in August after the primary election and organize by the election of one of their number as chairman and one as vice chairman, one of whom shall be a woman, and by the election of a secretary, and treasurer, one of whom shall be a woman, but who may or may not be members of the committee, and having so organized such committee shall proceed to elect three men and three women, qualified electors of the district, as members of the party state committee."

Honorable Ray S. James

Section 120.830, RSMo 1969, provides:

"The members of the state committee elected as in sections 120.770 to 120.840 provided shall meet at noon on the second Tuesday in September next following the August primary, at some point in the City of Jefferson to be designated by the then existing state committee, and organize by the election of one of their number as chairman and one as vice chairman, one of whom shall be a woman, and by the election of a secretary and a treasurer, one of whom shall be a woman, but who may or may not be members of the state committee. Having so organized, the state committee shall meet with the party nominees for state offices, candidates for judges of the circuit courts, for the Congress of the United States and for the general assembly of Missouri and shall formulate and make public a state platform for their party."

We find no Missouri statute authorizing the State Committee to determine the qualifications and election of its members. Further, it appears that there have been but few cases in the United States on the subject and little authority recognizing an inherent common law power in a body to pass upon the qualifications and election of its own members. 16 Am. & Eng. Ann. Cas. 162. While it appears that the English courts have been inclined to hold that their municipal and legislative bodies have such inherent common law power, we are not able, in view of the lack of authority supporting the proposition in the United States, to conclude that our Missouri courts would hold that a body such as the State Committee has such inherent power.

Inasmuch as Section 120.820 provides that the members of the party State Committee shall be elected by the members of the congressional district committees and since there is no statutory provision authorizing the State Committee to determine the qualifications and election of such members, we are of the view that the State Committee does not have such authority.

Very truly yours,

JOHN C. DANFORTH
Attorney General