

Candidates—Nomination—Vacancies—Filing Fees.

A vacancy caused by the death or removal of a candidate should be filled by a certificate of the chairman and secretary of the central committee. No filing fee is required.

Mrs. Emily E. Sloan,
County Attorney,
Red Lodge, Montana.

September 16, 1926.

My dear Mrs. Sloan:

You have requested an opinion whether a candidate chosen in the place of one who has resigned must file his petition and pay his filing fee.

Section 647 R. C. M. 1921 provides:

“* * * In case of any such vacancy by death or removal from the state, or from the county or electoral district, such vacancy may be filled by the committee which has been given power by the political party or this law to fill such vacancies substantially in the manner provided by said sections 620 and 621 of this code.”

Section 621 provides that if the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, such committee may, upon the occurring of such vacancies, proceed to fill the same.

Then follows a statement of the facts required to be contained in the certificate made by the chairman and secretary of the committee.

At the time section 621 was enacted there was no other method of making nominations, other than party conventions or primaries, except the method provided by section 615, hence the reference to the method to be followed where nomination was made by party convention contained in section 621.

It is, therefore, my opinion that the chairman and secretary of the central committee should make the certificate required by section 621, where a vacancy has occurred by reason of the removal of a candidate from the county.

You have also asked whether the fees required of candidates under the provisions of section 640, as amended by chapter 133, laws of 1923, are required to be paid by the candidate whose nomination has been certified.

The fees required of candidates under the provisions of section 640, as amended, refer only to fees for party nominations made under the direct primary law and have no application to nominations to fill vacancies nor to nominations of independent candidates.

Very truly yours.

L. A. FOOT,

Attorney General.