

Opinion No. 630**Elections—Candidates—Vacancies
—Quorum—County Central
Committee.**

HELD: Since a county central committee consists of a definite number of duly elected and qualified members, a majority thereof constitutes a quorum for the purpose of transacting business, including that of filling a vacancy occurring in the party ticket.

October 16, 1934.

You have submitted the question as to what constitutes a quorum of a county central committee for the purpose of filling a vacancy among the candidates on the county ticket.

Section 662, R. C. M., 1921, as finally amended by Chapter 6, Laws of 1933, which covers the subject of election of county central committees and their powers including that of filling vacancies, does not state what constitutes a quorum. In the absence of such statutory provision I am of the opinion that the common law rule would apply.

The common law rule is that a majority of all the duly elected and qualified members of an assembly or body shall constitute a quorum. This rule was adopted in order to secure fair-

ness in proceeding and to prevent assemblies or groups from splitting up into groups, each group being likely to take action contrary to that of some other section. In *Lyons v. Woods*, 5 N. M. 327, 21 P. 346, where some of the authorities are collected, the Court quotes from Mr. Wapples as follows: "A quorum is a majority of the members. It is never less, under the common law of parliamentary procedure. Unless more than half of the members of the body are present, the body is not present. When more than half are present, the body is complete, and is as though all the members were present. If less than half could do business it would be possible for deliberative bodies to be divided into two or more assemblies, each capable of doing business, and each liable to adopt measures contrary to those adopted by some other section." After reviewing the authorities the Court concluded: "These authorities settle the point that there must be a legal quorum before there can be a legal body, and that, in the absence of a special rule on the subject, a quorum must consist of at least a majority of all the legally elected members."

In 46 C. J. 1378, sec. 8, under Parliamentary Law, the text writer states: "In reckoning a quorum the general rule is that, in the absence of a contrary provision affecting the rule, the total number of all the membership of the body be taken as the basis; and ordinarily a majority of the authorized membership of a body, consisting of a definite number of members, constitutes a quorum for the purpose of transacting business; * * *" The rule is the same in the case of municipal corporations. (43 C. J. 502, secs. 766-767.) This seems to be the rule generally. (51 C. J. 305, note 84.) The one exception to this rule is when the association or body is composed of an indefinite number of persons. (5 C. J. 1346, sec. 42.)

For the foregoing reasons, since the county central committee of Petroleum County consists of a definite number of duly elected and qualified members, I am of the opinion that a majority thereof constitutes a quorum of the committee for the purpose of transacting business, including that of filling a vacancy occurring among candidates of the respective parties.