

Opinion No. 125**County Committeemen—Election of Officers of County Central
Committee—Qualifications of Officers of County
Central Committee.**

Held: The officers of the County Central Committee who are elected at the organization meeting, which is held within thirty days after the candidates of their respective political parties are nominated, must have been elected committeemen or committeewomen at the preceding primary nominating elections.

August 11th, 1950.

Mr. Robert Swanberg
County Attorney
Missoula County
Missoula, Montana

Dear Mr. Swanberg:

You have requested my opinion on the following question:

"May the County Central Committee at organization meeting held after the primary election elect as officers persons other than those who have been elected as committeemen and committeewomen at the primary nominating election."

Section 23-929, Revised Codes of Montana, 1947, provides for the election of committeemen and committeewomen and sets forth the powers and duties of County and City Central Committees. This section was originally enacted as Section 32 of the Initiative Measure of 1912. By the Initiative Measure of 1912 Montana adopted the direct primary method of nominating political candidates and the former method of nominating candidates by the convention method was thereby superseded in large part. Although this section has since been amended four times by subsequent Legislative Assemblies none of the amendments specifically cover the question involved herein.

However, the fact that what has since become Section 23-929, *supra*, was made an integral part of the direct primary law and the language of the section itself clearly shows the Legislative intent was to provide a method whereby members of a political party could elect the nominees of that party for the various public offices and also to provide a method for electing by popular vote those members of the political party who were to compose the central committee of the particular party. Thus, the members of the party were given an opportunity to elect those members from their ranks whose organizational abilities could best promote the destinies of the party.

Sub-section 1 of Section 23-929, Revised Codes of Montana, 1947 provides in part, as follows:

"There shall be **elected** by each political party, subject to the provisions of this law at said primary nominating election, two committeemen, one of which shall be a man and one of which shall be a woman, for each election precinct, who shall be residents of such precincts. . . ." (Emphasis supplied.)

Sub-section 2 of the same section also provides in part as follows:

"The committeemen thus **elected** shall be the representatives of the political party in and for such precinct in all ward or subdivision committees that may be formed. The committeemen **elected** in each precinct in each County shall constitute the County Central Committee of each of said respective political parties. . . ." (Emphasis supplied.)

The well known maxim of statutory construction **expressio unius est exclusio alterius** may be here applied, as the express provisions of the statute providing for the election of committeemen would seem to exclude a person from becoming a member of the central committee in any other manner. There is no other provision in the Montana Codes which authorizes membership in the central committee of anyone but a duly elected committeeman. To hold otherwise would render nugatory the provisions of Section 23-929, supra, for if one need not be elected as a committeeman then it is difficult to see how one could truly be said to be the **representative** of his political party for his precinct.

It is true from time to time vacancies may occur in the committee membership for various reasons, but the Legislature has provided for such contingencies by sub-section 3, Section 23-929, supra, which provides in part, as follows:

"In case of a vacancy happening on account of death, resignation, removal from the precinct, or otherwise, the remaining members of said County committee may select a committeeman to fill the vacancy and he shall be a resident of the precinct in which the vacancy occurred."

Thus, it is possible for a person to be a committeeman without being elected by the voters but in order to become a committeeman he must be selected by the remaining members of the committee.

Sub-section 5 of 23-929, supra, further provides that said committee shall meet and organize by electing a chairman and secretary within thirty days after the candidates of their respective political parties shall have been nominated, and sub-section 2 of the same statute provides that the term of each committeeman shall be for two years from the date of the first meeting of said committee immediately following their election. Since the central committee is not a continuous body in that there are no holdovers, it follows that the only **bona fide** members of the committee at the time the organizational meeting is called are those who have been elected at the preceding

primary election. The statute commands that the central committee meet and organize by electing officers within thirty days after the candidates of their party have been nominated, and since the first order of business is the election of officers it follows that these officers must come from the then existing members of the committee, namely, those who have been elected by the voters at the preceding primary election. After the committee is organized it may then proceed to fill any vacancies that may exist. Therefore, it is my opinion that the only persons eligible to be elected officers of the County Central committee at the organizational meeting are those persons who have been elected committeemen at the primary nominating election preceding the organizational meeting.

I am aware that Opinion 246, Volume 18 of the Official Opinions of the Attorney General held that a person need not be a precinct committeeman in order to qualify as chairman of the County Central committee. That opinion is very brief and is based on the proposition that the statute does not specify that a person must be a committeeman in order to qualify as chairman of the County Central committee. However, for the reasons which I have already set forth I must disagree with that opinion for it seems to me that the clear implication of Section 23-929, *supra*, requires that the officers of the County Central committee must be chosen from the committeemen elected in each precinct who constitute the County Central committee of each of the respective political parties.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.