

OPINION
52-37

July 29, 1952 (OPINION)

ELECTIONS

RE: Special to fill vacancies

In your letter addressed to this office and received July 21, 1952, you state that on July 17, 1952, Governor Burnsdale signed a writ of election notifying the county auditor of Pierce County that the vacancy as a result of the death of Senator Willard B. Anderson shall be filled at a special election, and that the special election shall be held at the time of the general election which is November fourth of this year.

You now ask for an explanation of the procedure to be used in making party nominations for that vacancy, and you ask whether a private citizen, without party nomination, may have his name placed upon the ballot. You ask further whether under section 16-1709 of the 1949 Supplement the nominees for the members of the Legislative Assembly are eligible to vote for a nominee in convention.

You will notice that section 16-1709 of the 1949 Supplement provides that the precinct committeemen together with the nominees for and the members of the Legislative Assembly of that party shall constitute the county committee.

You will notice that under section 16-1710 the officers mentioned in the section just quoted will meet and vote for the organization of a county committee. This committee then will preside at the meeting provided for under section 16-0702 (Special Elections). The nominees for and members of the Legislative Assembly are now precluded from voting for delegates to the nominating convention unless under section 16-1710 they were elected to an office on the county committee or that they are elected or appointed precinct committeemen.

Public printed or posted notice of holding of the nominating convention shall be given at least six days before the holding of the same. Section 16-0704 holds that the basis of representation of delegates to a convention shall be fixed and determined by the authorized county or state committee of each political party entitled by law to make nominations for office by delegate convention.

We understand this last section to mean that the by-laws or rules of order of the county committee have provided for the proper representation of delegates to the nominating convention.

The election ballot carries on the face of it a Republican column, a Democrat column, and an Individual Nominations column. The nominating convention for the Republican and Democratic parties will place the name of their nominees in their respective columns and as many individuals as desire to do so may file in the Individual column by simply certifying the number of signatures to the county auditor.

Subsection 2 of section 16-0302 requires that when a nomination for an office is to be filled by the electors of a district less than the entire state the number of signatures shall be ten percent of the number of votes cast in such district for a member of Congress at the last preceding general election, except that in no case shall more than three hundred signatures be required.

It is our opinion that the special election ballot is incorporated into the general election. The tenor on political organization seems to indicate that the purpose of the law is to give advantage to that faction in a political party that has the greater number of precinct committeemen and that they thus file their preference in their party column.

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