

ABSENTEE BALLOTS: In order for absentee ballots to be legal, procedure prescribed in Sec. 10186, Laws of Mo. 1933, p. 222-223 must be followed.

September 27, 1934.



Hon. Arthur Huff,
Clerk of County Court,
Ironton, Missouri.

Dear Sir:

Some time ago this department received a request from you relative to the counting of absentee votes cast in the Primary. We regret that due to the onerous duties of this office we were unable to render the opinion so as to enable you to use it at the Primary; however, we anticipate this question will again arise at the general election; hence, we now render the opinion. Your letter is as follows:

"Only three absentee votes will be cast in the Primary for this county. Will it be necessary to appoint four disinterested persons from the two dominant political parties for the purpose of opening and counting said absentee votes? Since the number of votes is so few, would it be lawful for the two justices of the peace to canvass these three votes while canvassing the regular primary vote?

I am writing at the request of the County Court. They are very interested in keeping expenses down."

The Regular Session of the Legislature in 1933 made a radical change in the mode and manner of casting absentee ballots. There have been no decisions on the law as changed; hence, we must be guided solely by the wording of the statute. Section 10186, Laws of Mo. 1933, page 222 is as follows:

"The official or officials charged with the duty of issuing such ballots to absent voters for the district, ward or precinct in which such absent voter resides shall receive the ballot of such absent voter and safely keep and preserve the same unopened in his or their office. At least 24 hours before said ballot shall be opened and canvassed, such official or officials shall make a complete list of the names of such absent voters whose ballots have been received, and shall cause such list thereof to be posted in some conspicuous place in his or their office, which list shall also show the precinct in which said absent voter claims to be a resident. Such list shall be open to public inspection. Whenever the county court of any county, or the board of election commissioners, as the case may be, shall meet to canvass the votes according to law they shall first appoint four disinterested persons from the two dominant political parties, not more than two of whom shall be of the same political faith, for the purpose of opening and counting said absentee vote, and the said persons so appointed shall take the oath prescribed for the regular judges of election, and shall at once proceed to open, canvass and count such votes, and having determined that such absent voter or voters are entitled to vote in the respective precincts wherein he or they offer to vote, and having been fully satisfied thereof they shall certify to the county court, or to the election commissioners, as the case may be, the number of qualified votes to be counted for each of the respective candidates voted for in such election precinct, or for or against the question of public policy submitted at such election, and shall forthwith make such certificate to the county court, or to the election commissioners, as the case may be, who shall tabulate such vote along with the other votes certified from the several precincts of the county and credit the same to the candidate or issue for whom or for which said absentee votes were cast in arriving at the total result of the election in the district, precinct or ward where said voter resides or lives: Pro-

vided, however, that no ballot shall be counted by said judges which has not been received and filed by the issuing official or officials within the time by this act required."

CONCLUSION

While we realize that the manner of counting the votes mentioned in your letter would be economical to the county, yet we are constrained to hold that in order for the absentee ballots to be legal and valid, it is necessary that the terms and conditions as set out in Sec. 10186, supra, be followed.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General

APPROVED:

ROY McKITTRICK,
Attorney General

OWN:AH