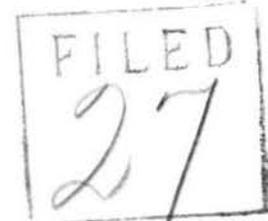


ELECTIONS: Absentee ballots - An absentee voter may vote his ballot immediately upon receipt of same or on any day prior to and including day of election. Elector voting absentee ballot must be within the confines of the State of Missouri.

September 30, 1936.

Mr. O. M. Ennes,
Clerk of County Court,
Barry County,
Cassville, Missouri.



Dear Sir:

We are in receipt of your letter of September 28 and tender you the following in reply thereto. Your letter is as follows:

" * * * Is it the intention of the law and in your opinion would it be legal for a voter who is to be absent from his county on election day to come into the County Clerk's office of his home county six days before election, make application and at the same time vote his ballot before said county clerk, provided, of course, that the ballots are in the hands of the clerk? Would there be any difference if a voter was to be out of the State on election day?"

In 1935, the Legislature repealed Section 10182, which was passed by the 1933 Legislature, and enacted Section 10182 (Laws of Mo. 1935, p. 264) relating to absentee ballots, which provides as follows:

"Any elector as defined in the foregoing section expecting to be absent from the county of his residence on the day of such election may, not more than thirty nor less than five days prior to the date of such election, make application in person, or by mail, to the county clerk or, where existing, to the

board of election commissioners, or other officer or officers charged with the duty of furnishing ballots for such election in his voting precinct, for an official ballot for said precinct to be voted at such election."

Under the provisions of the above section, the voter may make application not more than 30 or less than 5 days prior to the day of such election.

Referring to the original sections repealed and amended in 1933 (Laws 1933, pp. 218-225 inclusive), we note by Section 10185 (p. 222) that the time limit for returning an absentee ballot is 6:00 P.M. of the day next succeeding the day of the election. The pertinent part of said section is as follows:

"Such officer shall then write or print upon said envelope the following: 'Absentee ballot of (insert name of voter) marked and sealed in my presence' which certificate shall be signed by such officer and his official title noted thereon, and the envelope shall be by such voter sent by mail, postage prepaid, to the officer issuing the ballot, or, if more convenient, it may be delivered in person and such official issue his written receipt therefor, but in any event it must be returned into the hands of the issuing official not later than 6:00 o'clock P.M. of the day next succeeding the day of such election."

CONCLUSION

It being only necessary for the voter to execute his absentee ballot before a person authorized to administer oaths in the State of Missouri, it is the opinion of this department that an absentee voter may vote his ballot immediately upon receipt of the same, or at any time prior to and including the day of the election.

By the terms of Section 10185, supra, we are of the further

opinion, in answer to your specific question, that the elector may apply in person to the County Clerk or to the Board of Election Commissioners, receive his ballot and vote the same before the County Clerk at one and the same time.

In regard to your inquiry, to-wit, "would there be any difference if a voter was to be out of the State on election day", we are of the opinion this would make no material difference, as the main requisite is to the effect that the voter when voting the absentee ballot must be within the confines of the State of Missouri. As to his actions or whereabouts after voting, we think the same would be immaterial and of no consequence.

Very truly yours,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney General

JWH:AH