

ELECTIONS:) Party representatives appointed under Section 10270,
PRIMARY:) R. S. 1929, not entitled to be paid as election
judges out of the county treasury.

August 8, 1938



Honorable J. V. Conran
Prosecuting Attorney
New Madrid County
New Madrid, Missouri

Dear Sir:

This is to acknowledge your letter of August 4th in which you request the opinion of this office. Your letter states fully the question to be determined and we herewith set forth same as follows:

"Section 10270 of the Revised Statutes of Missouri, 1929, provides that in a Primary Election the County Committee, representing each of the major political parties, may appoint a challenger, an alternate challenger, a witness to the count, an alternate witness to the count, to represent their respective parties at the voting precinct during said election. In this County many of such officers were duly appointed and acted at the Primary Election held on August 2nd. I note that the Poll Books, on which the returns are made, have a space for the signature of the witnesses the same as for the election judges.

"The question now arises that since the law provides for these officers to act during the election, whether or not they take the same status as election judges and clerks, and who is responsible for the payment of

their compensation for such services. The judges and clerks of election in this County are allowed \$3.00 each per day, and we desire to know if the aforementioned specially appointed officials are entitled to be paid the same amount from the funds of the County, or whether such payment must be made by the political party making the appointment."

Section 10270, R. S. Mo. 1929, provides as follows:

"The county, ward or township committeeman of each party in each county, or the ward committeeman in any city with a population of over 300,000 may appoint two party agents or representatives, with alternates for each, who may represent his party at the polling place in each precinct during the casting, canvass and return of the vote at a primary, who shall act as challengers and witnesses to the count of the vote for their respective parties, and have the power prescribed by law."

It will be noted that under the provisions of this section the county, ward or township committeeman of each party in each county may appoint two party agents or representatives, with alternates for each, who may represent their party at the polling places at the primary election. The persons so designated by the committeemen are the representatives of the political party so appointing them and their appointment is a privilege which the party committeemen may exercise at their option, and the failure of the political party to appoint such representatives in no way affects the validity of the primary election.

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Section 10287, R. S. Mo. 1929, provides that the judges and clerks for primary elections held under Article 5, Chapter 61 (relating to primary elections) shall be appointed in the same manner and possess the same qualifications and consist of the same number as judges and clerks of general elections in this State. The compensation of the judges and clerks of election is fixed by Section 10203, R. S. Mo. 1929, which permits the county courts to pay not to exceed \$3.00 per day for their services out of the county treasury. Nowhere do we find any statute allowing compensation out of the county treasury to the agents or representatives of the political parties appointed as provided in Section 10270, supra, and in the absence of some statutory authority authorizing payment we are of the opinion that these agents and representatives are not entitled to be paid out of the county treasury. If they are paid for their services, we think they should be paid by the respective political parties so appointing them.

Very truly yours

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General

CRH:EG