

ELECTIONS:
PRINTING
ABSENTEE
BALLOTS:

Clerks may have absentee ballots printed more than ten days prior to election day.

September 18, 1942

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Hon. E. W. Bennett,
Assistant Prosecuting Attorney,
Dent County,
Salem, Missouri.

Dear Mr. Bennett:

This is in reply to yours of recent date wherein you submitted the following question:

"Can the County Clerk under the latter provisions of Sec. 11472 print Absentee ballots so they can be voted anytime after 30 days before the general election, or does the old election law, providing that ballots shall be printed ten days before day of election apply to the absentee ballots."

Under the primary election law, Section 11558, R. S. Mo., 1939, it is provided that:

" * * * * * On or before the 10th day before the holding of any primary election the county clerk shall correct any errors or omissions in the ballots, cause the same to be printed and distributed, as required by law in the case of ballots for the general election, * * * * * "

It will be noted by this provision that the clerk

is required to have had the ballots printed and distributed for the primary election on or before the tenth day before the holding of the primary. This section would indicate that it is necessary for the clerk to have had the ballots printed more than ten days before the date for holding the primary election.

Under the general election law applying to absentee voters which was amended in 1933, Laws of Missouri, 1933, page 218, R. S. Mo., 1939, Sections 11470-11479 inclusive, provisions are made for absentee voting by persons absent from their voting precinct but within the boundaries of the State of Missouri on election day. Under Section 11471 R. S. Mo., 1939, a person desiring to vote an absentee ballot may apply for an absentee ballot not more than thirty days nor less than five days prior to the date of the election.

Under Section 11472, R. S. Mo., 1939, which pertains to the affidavit and application for the absentee ballot and the printing of the ballot it is provided in part as follows:

" * * * * * Immediately upon receipt of such application within the time and in the manner provided by this article, the county clerks of the county, or the board of election commissioners, if any, or other official charged herein with the duty of furnishing ballots to such applicants, shall make a list of the names of such absent voters whose applications for ballots have been received, and shall cause such list to be immediately posted

in a conspicuous place accessible to the public at the entrance of the office of such officer or officers which list shall show also the postoffice address, street address, ward or precinct number given by such applicant. Such list shall be supplemented daily by the addition thereto of the names, addresses, and precinct numbers of those thereafter making application for such ballots as by this article authorized: Provided, that no county clerk, board of election commissioners or other proper official charged with the duty of furnishing such ballots after examination of the records, or otherwise ascertaining the right of such person to vote at such election shall be required to furnish any ballot or ballots to any person desiring to vote as by this article authorized who is not lawfully entitled to vote, and if the applicant for ballot or ballots is entitled to receive same, the county clerk or the board of election commissioners, if any, or other official charged with the duty of furnishing such ballots immediately upon receipt of the printed ballots shall send by registered mail postage prepaid, or deliver in person an official ballot or ballots if more than one are to be used and voted at said election to such applicant. The official charged by law with printing and supplying ballots under the general election laws of this state, shall cause to be printed and supplied a sufficient number of ballots to have printed at the top of such ballots the words 'official absentee ballot' to be furnished such absentee

voters under the provisions of this article."

Provisions for voting absentee ballots in this State are purely statutory; therefore, we must look to the statutes alone for directions as to the procedure to be followed in preparing absentee ballots and voting the same. From an examination of the sections hereinbefore referred to, it will be seen that no time is designated for the printing of such absentee ballots. Inasmuch as the law permits the applicant for the absentee ballot to apply for his ballot thirty days before the date of the election; and since Section 11472, supra, requires the clerk to immediately consider the application for the ballot, then it stands to reason that if the clerk finds that the applicant is entitled to vote he should at that time forward to the applicant the absentee ballot. As stated above, the primary election law fixes the minimum time within which the clerk must have the ballots prepared and delivered to the election officials.

We are further supported in our views herein by the fact that under Section 11471 the applicant may apply in person for the ballot during the period of not more than thirty nor less than five days before the election. This provision would indicate that the lawmakers contemplated that at the time the applicant makes application in person for his absentee ballot the county clerk should have such ballots on hand.

Mr. E. W. Bennett

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CONCLUSION

We are, therefore, of the opinion that absentee ballots for the general election may be printed more than ten days prior to the date of the election and may be printed in ample time so that a person applying for such ballot can have the privilege, as stated in Section 11471, supra, of applying within the full time of thirty days before the general election.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

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