

ELECTIONS: A voter who moves from one address
REGISTRATIONS: to another in an election precinct
CHANGE OF RESIDENCE: should have his name transferred to
IN DISTRICT: the new address before he is entitled
to vote.

July 29, 1942

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Dear Sir:

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

"I have been requested by the Registrars of the City of Carthage and the County Officials to obtain from you a ruling in regard to Section 11945 R. S. Missouri 1939 and Section 11951 R. S. Missouri 1939.

"The former Statute states that persons once registered are not required to be registered until they have changed their domicile from the ward or precinct in which they are legally registered. The latter section 11951 provides that when anyone changes their residence within the precinct they shall notify the Clerk or the Board of such transfer.

"The question presented for determination is whether a person may vote in the coming primaries if he is registered in the precinct although that person has moved and

changed his address within the precinct and has failed to notify the Clerk or Board of such change in address."

The statutes applicable to this question are as follows:

Section 11937.

"Every male and female citizen of the United States, and every person of foreign birth who shall have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to register, who is over the age of 21 years, who has resided in the State one year next preceding the election at which he offers to vote, and during the last 60 days of that time shall have resided in the city, and during the last ten days of that time in the ward or precinct at which he offers to vote, who has not been convicted of bribery, perjury or other infamous crimes affecting his franchise, nor directly interested in any bet or wager depending upon the result of the election, shall be entitled to vote at such election for all officers, state or municipal, made elective by the people, or at any other election or primary held in pursuance of the laws of the State; but he shall not vote elsewhere than in the election precinct where his name is registered, and whereof he is registered as a resident unless otherwise provided in this article."

Section 11945.

"Whenever any person who is qualified to vote has registered in any election district, ward or precinct, and so long as he is a qualified voter of said city, his name shall be carried on the registration books by the board of registrars and all persons who now are qualified to vote in any city under the provisions of this article shall not be again required to register until they have changed their domicile from the election district, ward or precinct in which they are legally registered."

Section 11951.

"Whenever any person who has been duly registered as a voter shall change his residence from one precinct in said city to another, or from one part of said precinct to another part thereof, shall after making such change at any time on or before the 10th day preceding any election, apply to the clerk of said board to have his name transferred from the precinct in which he is registered, or his residence changed from his former to his present residence in such precinct, the said clerk shall cause him to be sworn and examined as to the facts of such change, and his statement shall be taken down in writing and signed and sworn to by him and duly certified to the board; * * * * *

By Section 5 of Article VIII of the Constitution of Missouri the framers of the constitution provided that the

General Assembly shall provide by law for the registration of voters in certain counties and cities. Pursuant to this direction the General Assembly has enacted the foregoing sections which pertain to cities of a population from 10,000 to 30,000.

A rule to apply in the construction of election laws is well stated by the St. Louis Court of Appeals in State ex rel. v. Jones, 79 Mo. App. 370, as follows:

"* * * * The right to exercise the elective franchise is a constitutional one, the highest and most sacred political right that can be conferred upon the citizen, and all laws which abridge the right should be most strictly construed, and laws which impose upon the voter the performance of acts in the least burdensome or inconvenient, such as registration acts, as a prerequisite to the exercise of his constitutional right to vote, should also be strictly construed, and naught should be required that is not plainly and clearly written in the act. * * * *"

In the Jones case, supra, a question similar to the one which is here under consideration was before the court. The opinion in that case was written in 1899 and it passed upon the Registration laws as they then applied to the city of St. Louis. That act contained similar provisions in relation to qualifications of voters and duties as to registration as does the act here under consideration, with the exception of the provisions of Section 11951, supra, applying to the duties of the registrant in case he changes his address from one place to another in a precinct to have his name transferred on the registration books. In the Jones case the court held that where the voter is once registered he is not required to again register until the next general registration, unless he has,

since registering, removed to another precinct; but not because he has moved to another house in the same precinct.

At l. c. 375 in the Jones case, the court, in speaking of what the Legislature might have done to clarify such a situation, said:

"* * * It might have served to prevent confusion had the General Assembly required the voter in such cases to appear before the board of registration and give notice of his removal and have the fact of his change of residence noted in the registration book, but no such requirement is found in the act, and the courts can not write it into it by construction. * * * * *"

Following the suggestion made in the Jones case, the lawmakers apparently have included in registration acts provisions such as are in said Section 11951, supra, providing that where a voter changes his residence from one part of a precinct to another part thereof to apply to the Clerk of the Board to have his name transferred. Since the court in the Jones case suggested such a provision, and since the lawmakers have apparently followed this suggestion, we think this is a reasonable requirement and does not violate the provisions of Section 2 and Section 5 of Article VIII of the Constitution or of the Fourteenth Amendment of the Federal Constitution.

In the case of State ex rel. Meyer v. Woodbury, 321 Mo. 275, 10 S. W. (2d) 524, the registration act which applies to Kansas City was before the court and the reasonableness of this act was under consideration and, since the act contains many provisions similar to the act here under consideration, and since the court in that case held that the provisions of that act were reasonable, we think the court would hold the same if applied to the part of this act which requires the

voter in case he changes his residence in his precinct to request that his name be transferred.

CONCLUSION

It is, therefore, the opinion of this department that a person who has changed his address within the precinct in which he has registered and has failed to notify the Clerk or Board of such change may not vote in the coming primary.

Respectfully submitted,

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Assistant Attorney-
General

TWB:CP

APPROVED:

HARRY H. KAY
(Acting) Attorney-General