

ELECTIONS:

ELECTION JUDGES:

BALLOT BOXES:

Ballot boxes in third and fourth class counties must be locked in order to comply with the requirements of Section 111.610, RSMo 1959, that they be securely closed and that the election judges are responsible for locking the ballot boxes.

July 31, 1962

Opinion No. 181



Honorable Warren E. Hearnes  
Secretary of State  
Capitol Building  
Jefferson City, Missouri

Dear Mr. Hearnes:

Reference is made to your request for an official opinion of this office. Said request reads as follows:

"The Secretary of State would like to have an opinion concerning whether ballot boxes in third and fourth class counties must be locked in order to comply with the requirements of Section 111.610, RSMo 1959, that they be 'securely closed' and, if so, who is responsible for locking them."

The purposes and objectives of the laws pertaining to the conduct of elections and related statutes are to protect the security of the ballot as provided for in Section 3 of Article VIII of the Missouri Constitution of 1945; to help protect the public against the corrupt practices and offenses pertaining to elections as enumerated in Chapter 129, RSMo 1959; and to help protect the efficiency, uniformity, and integrity of elections generally.

Section 111.610, RSMo 1959, as cited in your aforesaid inquiry is a part of Chapter 111 of the Missouri Statutes which pertains to the conduct of elections generally and which provides in part as follows:

" \* \* \* the ballot boxes \* \* \* shall be opened and examined before all the judges and clerks and everything removed therefrom; \* \* \* said ballot boxes \* \* \* shall be kept securely closed while the balloting continues \* \* \*"  
(Emphasis supplied).

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In attempting to determine the true concept of the phrase "securely closed" our attention is directed to statutes relating to the same or similar subject matter and find that Sections 113,330, 113,860, 119,450, RSMo 1959, which are a portion of the conduct of election laws which pertain specifically to St. Louis County, Jackson County and Clay County respectively, state in part that:

" \* \* \* the ballot boxes \* \* \* shall be kept securely closed while the balloting continues until the time of the closing of the polls.  
\* \* \* " (Emphasis supplied).

Note these sections as cited also use the phrase "securely closed."

However, Sections 118.460, and 117.540, RSMO 1959, which are a portion of the laws pertaining to the conduct of elections specifically relating to the City of St. Louis and Kansas City, respectively, state generally that ballot boxes shall be "locked" and the keys delivered to one of the judges and shall not again be opened until the close of the polls.

Note that the language of the foregoing statutes specifically pertaining to the aforesaid counties and cities is almost identical except for the use of the terms "locked" and "securely closed." In each instance, the ballot boxes are not to be opened until the time of the close of the polls. As these sections are *pari materia* and should, therefore, be construed together (*City of St. Louis v. Carpenter*, 341 SW2d 786), it would appear unreasonable in view of the aforesaid purposes and objectives of the laws pertaining to elections and the need of uniformity of application therein, that the legislature intended by the use of the said terms "locked" and "securely closed" a different measure of protection for the safety and secrecy of the ballot in the cities than in the counties previously specified. This reasoning also applies to the conduct of election laws pertaining to third and fourth class counties, for though under Section 111.610, *supra*, the ballot boxes when in use are to be opened and exchanged every hour, the statute specifically states that the ballot boxes are to be not only closed but that they are to be "securely closed."

For a further determination of the legislative intent, we find that generally the courts must seek to get the intent of the legislature from the plain and ordinary meaning of the words used, considering the whole act and its legislative history and must seek to promote the purpose and the objectives of the statute, and to avoid any strained and absurd meaning. *St. Louis Southwestern Ry. Co. v. Loeb*, 318 SW2d 246; Section 1.090, RSMo 1959.

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Volume 14 of C.J.S. at page 1275 defines "to close" as  
" \* \* \* to shut up, so as to prevent \* \* \* access by any person  
\* \* \*."

Webster's Second New International Dictionary, unabridged,  
defined the following words:

Secure: Safe; as (a) not exposed to danger; as secure  
from foes. (b) In safe keeping or possession; secured.

Closed: Shut fast; closed; not open; tight.

Locked: Fastened or united by locking.

Lock: A means or device for fastening or for restraining.

Taking into consideration the foregoing authorities and definitions, the term "securely closed" means in its plain and ordinary sense that the ballot box must not only be closed (that is, shut fast) but must be closed in such manner that persons unauthorized by law will be unable to open it without breaking the fastener. One "secures" something by making it safe from the danger of unauthorized entry. This could possibly be accomplished by the nailing, screwing, banding, etc., the ballot box closed, but the impracticability and the absurdity of such methods in regard to the conduct of election laws are obvious. Therefore, under the aforesaid definitions and authorities, the locking of the ballot boxes is the only practical method of complying with the requirements that the ballot boxes should not only be closed but "securely closed," so as to uniformly promote and perpetuate all the purposes and objectives as hereinbefore stated of the aforesaid laws pertaining to the conduct of elections.

In view of the foregoing, it would appear therefore that the terms "securely closed" and "locked" as used in the said election laws are actually interchangeable or synonymous and that ballot boxes in third and fourth class counties should be locked in order to comply with the requirements of Section 111.610, RSMo 1959, that they be "securely closed." This conclusion is further substantiated by Section 111.065, par. 1, subpar. 2, which states in part as follows when specifying the procedure of voting by new residents:

" \* \* \* A ballot box containing the presidential ballots required by this section shall be kept and locked in the same manner as is provided by law for the handling of

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ballot boxes to be used in elections generally;  
\* \* \* (Emphasis supplied).

As to your final question as to who is responsible for locking the ballot boxes, you will note Section 111.490, RSMo 1959, states as follows:

"The sheriffs of their respective counties shall provide, at the expense of their counties, two ballot boxes, one of which shall be numbered 'No. 1' and the other numbered 'No. 2', for each precinct in each municipal township in said counties. The sheriffs shall preserve the same, and have such boxes present at the proper time, for the use of the judges of the elections.  
\* \* \* (Emphasis supplied).

You will further note that Section 111.610, supra, indicates that the election judges have the full care, custody, and control of the ballot boxes once they are delivered by the sheriff for the use of the election judges; therefore, the election judges are responsible for locking the ballot boxes when in use pursuant to Section 111.610, supra.

#### CONCLUSION

Ballot boxes in third and fourth class counties should be locked in order to comply with the requirements of Section 111.610, RSMo 1959, that they be securely closed; and the election judges are responsible for locking the ballot boxes.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Paul A. Slicer, Jr.

Very truly yours,

THOMAS F. EAGLETON  
Attorney General

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