ELECTIONS:     Under Section 10267a not necessary for the Board
               of Election Commissioners to print ballots for
               the Socialist Party in the County of St.Louis.


                                           June 28,1934

                                                    6-28

Baur & York
Attorneys at Law
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Four North Eighth Street
St.Louis,Missouri                            5

Gentlemen:

          This Department acknowledges receipt of your letter
of June 15, requesting an opinion based on the facts contained
in your letter, as follows:

          "The Secretary of the Socialist Party of
          the County of St. Louis has asked me to
          write you for an opinion concerning the
          election laws, in order that the said
          Party may not lose their place on the
          ballot this coming November. Briefly the
          facts are these:

          The membership of the Socialist Party met
          in Convention and nominated their candi-
          dates. The filing fee was paid by the
          candidates to the proper Party officials
          and the declaration of intention with the
          receipt for the filing fees has been filed
          with the Board of Election Commissioners
          for the County of St. Louis.

          The persons in charge of the office of
          the Board of Election Commissioners state
          that as an act of economy, and since all
          of the Socialist Party candidates have
          been nominated, it would not be necessary
          to have ballots of and for the Socialist
          Party printed and at the election polls
          on the Primary Election Day.    While the

Socialist Party is at no time in favor
of the needless expenditure of money,
the question arises from the wording of
the various statutes on elections, whether
or not, in the event that the Socialist
Party has no ballots in the Primary Elec-
tion, therefore, they would receive no
votes in the Primary, hence might not be
entitled to be placed on the ticket in
November.

Will you kindly give us your opinion
respecting the above?"

Section 10267 Revised Statutes Missouri 1929 governs
the manner of preparing the tickets for the Primary Election
and the manner of voting.   In 1933 the General Assembly of
Missouri added a new section designated as Section 10267a, at
page 238 of the Laws of Missouri 1933, said section being as
follows:

"Whenever any person shall have filed as a
candidate for nomination upon a party ticket
which, at the last preceding election for
Governor, shall have cast less than 5 per
cent of the total vote cast for Governor in
such election, and when not more than one
person shall have filed as a candidate for
any office on such party ticket, no ballot
shall be printed for the primary election
as herein provided unless upon petition of
at least 10 per cent of the voters voting
in the county at said preceding election
for Governor.  When no ballots are printed
as hereinbefore provided, the candidates
filing declarations and who are unopposed
shall be certified, as by this chapter pro-
vided, as the nominees of such party cast-
ing less than 5 per cent of the vote of
the state."

You state in your letter that the candidates of the
Socialist Party have filed their declarations, paid the filing
fees and except for the above quoted section would be
entitled to have ballots prepared representing their Party.

The question arises mathematically whether or not the Social-
ist Party cast a total vote of five per cent or more of  the
total vote cast for Governor in 1932.     The approximate
total vote cast for Governor in the 1932 General Election is
1,597,979, the total vote cast by the Socialist party in
the same election is approximately 10,921, thus it is readily
ascertainable that the Socialist Party in the State of Mis-
souri or in your county cast less than five per cent of the
total vote for Governor.

### CONCLUSION.

Assuming that ten per cent of the voters voting in
the County of St. Louis at the last General Election of 1932
have not petitioned requesting that ballots be printed for
the Primary Election for the Socialist Party, we are of the
opinion that no ballots should be printed for the Socialist
Ticket in the coming Primary Election.


Respectfully submitted,


OLLIVER W. NOLEN
Assistant Attorney General,

APPROVED:


ROY McKITTRICK
Attorney General

OWN:LC