

ELECTIONS: Stickers must be placed over identifying numbers on all ballots.

April 1, 1942

Honorable Dwight H. Brown
Secretary of State
Jefferson City, Missouri



Dear Sir:

This department is in receipt of your request for an official opinion, which reads as follows:

"Sec. 11607 R. S. 1939 as amended in 1941 requires black sticker over number on back of ballot.

"In the November election, there will be at least four separate ballots, as I understand the situation: (1) Blanket ballot with names of candidates, (2) Non-partisan judges' ballot, (3) constitutional amendments and initiated measures, (4) the question, shall there be a convention to amend and revise the constitution.

"Question has been asked, whether a black sticker must be used on each of these four ballots?"

As noted in your request, the question involved in this opinion is whether a black sticker must be placed upon the identifying number on the four ballots to be used in the 1942 general election. We assume, in so far as this opinion is concerned, that these four ballots will be submitted to the people at this election.

Section 11607, R. S. Mo. 1939, as amended 1941, Laws of Missouri, page 363, provides as follows:

"Every ballot shall be numbered in numerical order in which received, and it shall be the duty of the election judges, in the presence of the voter, before any ballot is placed in the ballot box, to cover or conceal securely the identifying number or numbers placed on the ballot by placing over the number or numbers, and pasting down, a black sticker, which sticker is to be two inches square with gummed edges extending three-eighths ($3/8$) of an inch towards the center of the square, so as to conceal but not destroy, the number or numbers placed thereon. Such stickers shall be supplied to the election judges by the County Clerk or Board of Election Commissioners of each county or city, and no sticker shall be removed except in case of contested elections, grand jury investigations, or in the trial of all civil or criminal cases in which the violations of any law relating to elections, including primary elections, is under investigation or at issue and then only on the order of a proper court or judge thereof in vacation. No judge of election shall deposit any ballot upon which the names or initials of the judges, as hereinbefore provided for, do not appear."

Under the above section the identifying number on "every ballot" shall be concealed by a black sticker.

Section 11595, R. S. Mo. 1939, which is the general law providing for the form of the ballot to be used in the

elections in Missouri, states:

"* * * On receiving the ballot from the voter the number of the ballot voted in the order in which it is received, but no other writing except the initials of two judges as provided for in Section 11602 of this chapter, shall be on the back of the ballot.
* * * *"

Section 11680, R. S. Mo. 1939, provides for the form of the ballot to be used in a vote of whether or not a Constitutional Convention shall be held, and also as to the form of the ballot when constitutional amendments are submitted to the vote of the people. The latter part of this section provides as follows:

"* * * In all other respects the law governing the printing, distribution of ballots, the number to be distributed, and the manner of voting ballots at a general election shall apply to 'constitutional ballots' where not in conflict with this article."

At the general election of 1940 the people of Missouri amended the Constitution by adding to Article VI seven new sections which were known as the "court plan." This plan provided that a judge of the Supreme Court of Missouri at the expiration of his term could submit his name to the voters of Missouri and they would vote whether or not he would be retained in office. Section 3 of this amendment provided that:

"* * * the judicial ballots required by this section shall be prepared, printed, published and distributed, and the election upon the question of retention of such judge in office

shall be conducted and the votes counted, canvassed, returned, certified and proclaimed by such public officials in such manner as is now provided by the statutory law governing voting upon measures proposed by the initiative."

The laws relating to "measures proposed by the initiative" provide in Section 12292, R. S. Mo. 1939, that:

"The manner of voting upon the measures submitted to the people shall be the same as is now or may be required and provided by law; * * * * *."

It will be seen, therefore, that the four ballots listed in your request are all governed by the general law, relating to the form of the ballot and, as pointed out, this law, Section 11595, provides that an identifying number shall be placed upon the ballot by the judge. Since Section 11607, Laws of Missouri, 1941, page 363, provides that every identifying number shall be concealed by a black sticker, we believe it is apparent that the identifying numbers upon the non-partisan judges' ballot, the Constitutional Amendment ballot, and the Constitutional Convention ballot should all be concealed by a black sticker as required by Section 11607, supra.

CONCLUSION

It is, therefore, the opinion of this department that the identifying number upon the general ballot with the names of the candidates, the non-partisan judges' ballot, the Constitutional Amendment ballot and the Constitutional Convention ballot, to be voted in the general election in November, 1942,

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shall be concealed with a black sticker as required by
Section 11607, Laws of Missouri, 1941, page 363.

Respectfully submitted,

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