

VOTING:
BALLOTS:

In voting upon two separate propositions regarding the restraint of animals over two different areas which are not identical, separate ballots should be used.

October 7, 1954



Honorable W. R. J. Hughes
Prosecuting Attorney
Iron County
Ironton, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"In telephone conversation with Mr. Wm. Berry of your staff, he asked me to write you for an official opinion on the following questions, and to tell you that we would appreciate your expediting the answer so that the County Clerk can have Ballots printed immediately.

"A petition asking election under section 270.130 to restrain all animals within two townships in one body was filed some time ago and an election ordered; about 1½ months later another petition affecting 3 townships, but including the 2 townships in 1st petition and asking for the same restraint, was filed and election ordered.

"The 1st question is whether 2 separate ballots each referring to 1 of the petitions will be necessary in the townships affected.

"The 2nd question is as to the form of the ballot or ballots to be used. We would appreciate your suggesting a certain form for such ballot or ballots."

Section 270.090 RSMo 1949, reads:

"The county court of any county in this state, upon the petition of one hundred householders

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of such county, at a general election, and may upon such petition of one hundred householders, at a special election, called for that purpose, cause to be submitted to the qualified voters of such county the question of enforcing, in such county, the provisions of this chapter. Said petitioners shall state in their petition to said court what species of the domestic animals enumerated in Section 270.010 they desire the provisions of this chapter enforced against, and may include one or more of said animals in said petition; and said court shall cause notice to be given that such vote will be taken, by publishing notice of the same in a newspaper published in such county, for three weeks consecutively, the last insertion of which shall be at least ten days before the day of such election, and by posting up printed notices thereof at three of the most public places in each township in such county, at least twenty days before said election; said notices shall state what species of domestic animals on which the vote will be taken, to enforce the provisions of this chapter against running at large in such county, which shall be the same as petitioned for to said court."

Section 270.100 RSMo 1949 reads as follows:

"1. There shall be written or printed on each ballot voted at said election of either of the following sentences:

"For enforcing the law restraining (insert the name of animals in petition) from running at large."

"Against enforcing the law restraining (insert the name of animals in petition) from running at large."

"2. Any such election, the voting thereat, making returns thereof, and casting up the result, shall be governed in all respects by the laws applicable to general elections for state and county purposes."

We feel that to the above there should be added the name of the townships which are the subject of the election. The ballot would then read, for example, as follows:

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"For enforcing the law restraining (insert here the names of the animals in the petition) from running at large in Brown and Blue townships in Dark County, Missouri."

The alternative line would be in the same form, of course, to-wit,

"Against enforcing the law restraining, etc."

Section 270.130 RSMo 1949, reads:

"Whenever two or more townships in one body in any county in the state of Missouri, by petition of one hundred householders, not less than ten of whom shall be from any one of said townships, petition the county court for the privilege to vote on the question of restraining horses, mules, asses, cattle, goats, swine and sheep from running at large, the same law governing counties is hereby applied to said townships, and said petitioners shall not be debarred the right to restrain said animals if a majority of the qualified voters of said townships, voting at any general or special election, shall vote in favor of so restraining such animals. Nothing in this section shall be so construed as to debar the right of restraining any two or more species of such animals; provided, however, that nothing in this section or chapter shall be construed to prevent the petitioning for and holding of an election to permit animals to run at large in any township or townships that have voted to restrain said animals from running at large, notwithstanding the county or township has theretofore voted to restrain animals from running at large."

From the above Section 270.130, supra, we see that the form of ballot set forth in Section 270.100, supra, is one which may be followed by you, which we believe fully answers your second question.

Your first question is whether it will be necessary to have a ballot for voting on the proposition contained in the first petition filed, and another and separate ballot for voting on the proposition contained in the second petition.

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The form of ballot set forth in Section 270.100, supra, clearly contemplates that only one proposition is to be voted on. We are unable to find any authority for a consolidation of the two propositions before you, and in fact do not readily see how such a consolidated ballot could be clearly stated, in view of which we believe that separate ballots should be used.

CONCLUSION

It is the opinion of this department that in voting upon two separate propositions regarding the restraint of animals over two areas which are not identical, separate ballots should be used.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General

HPW/ld