

- ELECTIONS: (1) Envelopes used to carry out the provision of the official war ballot law may be amended for use in a special election;
- (2) Ballot used for civilian absentee voting in special election may be used as ballots for soldier voting.

January 16, 1945

Hon. George J. Hug, Chief Clerk
Board of Election Commissioners
For the City of St. Louis
208 South Twelfth Boulevard
St. Louis, Missouri

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FILED 43

Gentlemen:

This will acknowledge receipt of your letter, in which you request an opinion of this Department upon the following questions:

"Enclosed find one set of 'mail out' and 'return' envelopes used at the November 7, 1944, General Election. As we have quite a supply of these envelopes on hand, we would like to use them for the February 27, 1945, Special Election.

"The Board has directed me to ask you for an opinion as to the use of the envelopes for the Special Election as originally printed or as corrected by this office or corrected as you may suggest.

"The Board further requests an opinion from you as to the printing of the ballots for soldier voting. Would it be necessary to have the ballots captioned 'Official War Ballot,' with instructions for voting printed on the back, or could we use the same ballots for soldier voting and civilian absentee voting?"

The Constitutional Convention of 1943-1944 passed an ordinance entitled "Manner of Holding Election, submitting the proposed Constitution of Missouri to the electors and fixing the date of said election," as appears by the Journal of said Convention for September 29, 1944. The provisions of said ordinance read as follows:

"* * * a special election to be held for that purpose on Tuesday, February 27, 1945. Every person entitled to vote under the Constitution and Laws of this state shall be entitled to vote at said election. Said election shall be held and said qualified electors shall vote at the usual places of voting at general elections in the several counties of this state including the city of St. Louis; and, except as herein otherwise provided, said election shall be conducted and returns thereof made according to the laws in force on said date regulating general elections; provided, that it shall not be necessary to hold said election with booths for the voters, and that said election shall be conducted by two judges and two clerks at each polling place, one judge and one clerk to be selected from each of the two Parties which cast the highest and next highest number of votes for Governor at the last general election. In cities and counties where registration of voters is now provided for by law said special election shall be held in accordance with the provisions of law now in effect applicable to the holding of general elections in said cities and counties, except that only one judge and one clerk shall be selected from each of the majority Parties as above provided. * * *"

The Missouri War Ballot Law, passed in Extraordinary Session, 1944, page 28, Sec. 1, provides who may vote absentee ballot:

"Any person being a duly qualified elector of the State of Missouri who is absent, or who expects to be absent, from the State or from the county in which he is a qualified elector, on military or naval service and who may, on the day of holding of a special, primary or general election * * *

or at which any question of public policy is submitted, be absent from his voting precinct because of duties requiring him to be absent from the State or from the county in which he is a qualified elector, on the day of such election, may vote an absentee ballot as hereinafter provided."

Sec. 2 of said Act, provides:

"For the purpose of making application for an absentee war ballot to be voted in a * * * special election by such absent voter as mentioned in this Act, the application by post card, which is provided for under the 'War Ballot Act' of the 77th Congress, Public Law 712, H. R. 7416, or any written request, telegram, cablegram or radiogram wherein are stated his name, voting address and the address to which the ballot desired by him is to be sent, shall be received and taken by the Clerk of the County Court or Board of Election Commissioners as an application to vote the absentee ballot provided for under this Act. * * * * *

Any application received by the Secretary of State shall be deemed to be an application to the county clerks or boards of election commissioners of the various counties or election districts where the elector has his place of residence; and the Secretary of State, immediately upon receipt of such applications, shall send the same by first class mail to such county clerks or boards of election commissioners, who shall handle such applications as made to the Secretary of State in the same manner as though such applications had been made to such clerks or boards."

Sec. 3 of said Act, provides:

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ope shall be used for transmitting the smaller envelope and ballot to the absentee elector and shall have printed on the front thereof substantially the following: * * * * *

The ordinance setting forth the manner of election has prescribed that the general election laws be followed for the special election except that voting booths are not required and a smaller number of judges and clerks are required. The provisions relative to the war ballot law should be liberally construed so as to effect the greatest exercise of franchise by members of the armed forces, and the duty and desire of all election officials are to make this exercise of franchise as available as possible. Although Sections 3 and 5 of the War Ballot Act do not clearly set out the requirements for a ballot or envelope to be used in a special election in connection with the war ballot law, there is nothing in the envelope as corrected by you that would interfere with the exercise of franchise in this special election.

The official ballot to be used in the special election, Tuesday, February 27, 1945, is small, concise and self-explanatory, and does not require additional instructions, but it should be labeled, "Official War Ballot for Special Election, Tuesday, February 27, 1945."

CONCLUSION

It is, therefore, the opinion of this Department that (1) the Board of Election Commissioners of the City of St. Louis can properly use the war ballot envelopes as corrected; that (2) the Board of Election Commissioners of the City of St. Louis should label the ballots sent out under the war ballot law, "Official War Ballot for Special Election, Tuesday, February 27, 1945."

Respectfully submitted,

A. V. OWSLEY
Assistant Attorney General

APPROVED:

HARRY H. KAY
(Acting) Attorney General

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