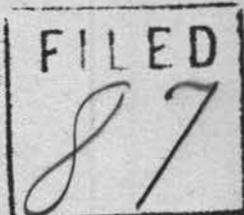


ELECTION: Judges and precinct judges and clerks in St. Louis City, who worked past midnight on date of August primary, are not entitled to extra day's pay therefor, but are limited to pay for days mentioned in Article 24, Chapter 76, Mo. R.S.A.

September 20, 1948



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Mr. Arthur M. Sullivan
Chief Clerk
Board of Election Commissioners
City of St. Louis
208 South 12th Boulevard
St. Louis 2, Missouri

Dear Sir:

This is in reply to your letter of recent date requesting an official opinion of this department and reading as follows:

"Today's news dispatches state that an opinion was handed down by your office that Judges and Clerks of St. Louis County who served at the Primary Election August 3, 1948, and worked past midnight, were entitled to two days pay. The Board requests your advice as to whether the opinion given to the Board of Election Commissioners of St. Louis County is applicable to Judges and Clerks employed by the Board of Election Commissioners of the City of St. Louis."

Section 12276, Laws of Missouri, 1947, page 279, provides in part as follows:

" * * * Precinct judges and clerks shall each receive as pay six (\$6.00) dollars for each day or part of day while on duty, except pay shall be allowed only for those days mentioned in this act."

There are found in the act referred to--that is, Article 24, Chapter 76, Mo. R.S.A.--a great many "days" mentioned.

Section 12199, R. S. Mo. 1939, provides in part as follows:

" * * * Said judges and clerks shall be appointed for a term ending sixty days prior to the next presidential election after the election at which they were appointed to serve, and shall, during

said term, serve as judges and clerks at all special, local, municipal, primary and general elections. The board shall have the power on any day of election, * * * "

Sections 12213 and 12214, R. S. Mo. 1939, provide for the verification lists for each precinct, and provide that at such time as the board of election commissioners may direct that the two clerks of the election of opposite politics shall canvass each precinct and shall continue such canvass until it has been completed.

Section 12222, Laws of Missouri, 1943, page 546, provides in part as follows:

" * * * Any person who shall wilfully or negligently destroy, tear down, deface, remove or otherwise injure a posted list of registered voters, prior to the day of the election for which it is posted, * * * "

Section 12227, R. S. Mo. 1939, provides in part as follows:

"The days upon which the general, state, county or primary elections shall hereafter be held in such city shall be legal holidays, * * * "

Section 12230, R. S. Mo. 1939, provides that the judges of election in each precinct shall on the day preceding any election call at the board of election commissioners and receive the precinct register and the key given to the judge who did not receive the register, and that the ballot boxes of each precinct shall be delivered to the one judge and the key or keys be given to the judge of the opposite political party.

Section 12231, R. S. Mo. 1939, provides in part as follows:

" * * * After the polls close the said clerks shall see that the roll call is properly filled out by the judges and clerks who actually served in that precinct on that day. * * * "

Section 12232, R. S. Mo. 1939, provides in part as follows:

" * * * Any judge or clerk who shall willfully absent himself from the polls on election day, without good cause, shall be guilty of a misdemeanor, and be subject to a fine or penalty of not to exceed five hundred dollars. * * * "

Section 12235, R. S. Mo. 1939, provides in part as follows:

"The qualified elector, on the day of election, * * * "

Section 12244, Laws of Missouri, 1943, page 546, provides in part as follows:

" * * * Each of the statements shall contain a caption stating the day on which, and the number of the election precinct and the ward, city and county in relation to which such statement shall be made, and the time of opening and closing of the polls of such precinct. * * * "

Section 12269, R. S. Mo. 1939, provides in part as follows:

"If any judge of election in any election precinct shall, without urgent necessity, absent himself from the polls of said precinct, upon any day of election, * * * "

As is shown from the above statutory provisions found in Article 24, Chapter 76, Mo. R.S.A., the days for which the precinct election judges and clerks are to be paid are clearly set forth. It is our opinion, therefore, that under the wording of Section 12276, Laws of Missouri, 1947, page 279, those precinct election judges and clerks of St. Louis City, who did, as a matter of fact, perform services after midnight of the August primary election day of 1948, are not entitled to an additional day's pay for the services performed after midnight of election day.

We believe that the reference in said Section 12276 to "part of day" refers to the payment to be made to the election clerks for their services on the last day of canvassing under provisions of Section 12214, R. S. Mo. 1939, whether or not a full working day is required on such last day of canvass and the payment to be made to the judges of election for their

Mr. Arthur M. Sullivan

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duties in obtaining and taking care of the precinct registers, the ballot boxes and the keys thereto on the day preceding the day of election.

CONCLUSION

It is the opinion of this department that the precinct judges and clerks, who, as a matter of fact, performed official duties after midnight of the date of the August primary, are not entitled to an additional day's compensation therefor.

Respectfully submitted,

C. B. BURNS, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR *C.B.*
Attorney General

CBB:VLM