

ELECTIONS: Board of Election Commissioners of St. Louis County
to make canvass alone of election returns.

March 10, 1939

Madison

Board of Election Commissioners
Of St. Louis County
Clayton, Missouri



Gentlemen:

We have your letter of recent date in which you submit for an opinion from this office the following question:

"Is it necessary for the Board of Election Commissioners of St. Louis County to have personally present at the time canvass of election returns is made by us two justices of the peace, or two judges of the County Court?"

Your question has arisen due to the reading of Section 10322, R. S. Mo. 1929, which reads as follows:

"The clerk of each county court shall, within five days after the close of each election, take to his assistance two justices of the peace of his county, or two judges of the county court, and examine and cast up the votes given to each candidate, and give to those having the highest number of votes certificates of election."

However, at page 229, Laws of 1935, will be found an act relating to registration and elections in your county. Section 1 of said act provides, among other things,:

" * * the conduct of elections, including primary elections, held in such counties, shall be governed by the provisions of this act. All elections and registrations in said counties under this act, shall be also governed by the general election or registration laws so far as the same are not inconsistent or in conflict with this act."

The question, therefore, to determine is whether or not the act which applies expressly to your county contains provisions as to the manner of canvassing election returns, which are inconsistent with the general statute (Section 10322) above quoted.

Section 43, Laws of 1935, page 257, provides as follows:

"Within eight days after the close of such election, the board of election commissioners, who are hereby declared a canvassing board of such county, shall publicly open all the returns, and shall make abstracts or statements of the votes."

Section 24, Laws of 1935, page 247, provides in part as follows:

"The board of election commissioners created hereunder and hereby shall have full and complete power to conduct any and all elections in such county and to receive and certify the returns thereon. And it shall be the duty of said board of election commissioners to certify such returns to the proper officer upon whom falls the duty of issuing certificates of elections."

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It will be seen that the special act governing elections in your county grants to the Board of Election Commissioners the power and charges them with the duty of canvassing the returns of elections held in your county. Such provisions are inconsistent with the provisions of Section 10322, R. S. Mo. 1929, and consequently they prevail over said Section 10322. A reading of the act governing elections in your county indicates that the Legislature intended to have the duties ordinarily performed by the county clerk in connection with election matters carried out by the Board of Election Commissioners.

CONCLUSION

It is, therefore, the opinion of this office that it is not necessary for the Board of Election Commissioners of St. Louis County to have present at the time canvass of election returns is made two justices of the peace or two judges of the county court.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

J. W. BUFFINGTON
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HHK:RT