

CONSTITUTIONAL ELECTIONS: County Courts cannot consolidate election precincts for the constitutional election February 27, 1945.

January 2, 1945



Honorable H. D. Allison
County Clerk
St. Joseph, Missouri

Dear Sir:

We have your letter of recent date in which you submit the following for our opinion:

"The Buchanan County Court would like to have an opinion on whether or not section 11482a, page 551, Election Laws Revised 1943-44 would apply to the coming election on the adoption of the new proposed constitution.

"In other words, the County Court are desirous of knowing whether or not they have the power to consolidate election precincts in the coming election. If so, it will save considerable money to the County and the County Court are at this time making appropriations for the 1945 budget. For that reason they are anxious to receive your opinion in this matter as soon as possible."

Section 3 of Article XV of the Constitution of Missouri deals with the calling of elections for constitutional conventions and with various questions concerning the proceedings and actions of such a convention. Among other things, said Article provides as follows:

"* * * Any proposed Constitution or constitutional amendments which shall have been adopted by such convention shall be submitted to a vote of the electors of the state in such manner and containing such separate and alternative propositions and on such official ballot as may be provided by

such convention, at a special election, on a day to be therein fixed, not less than sixty days nor more than six months after the adjournment of the convention. * * * * *

By the foregoing provision the Constitutional Convention, which has recently adjourned, had the right to determine the manner the proposed new Constitution should be submitted to the voters. That Convention, in pursuance to the foregoing authority, provided that the new Constitution should be submitted at a special election to be held on Tuesday, February 27, 1945. Said convention further provided in the ordinance which prescribed the manner of holding the special election as follows:

"* * * 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 major Parties, as above provided."

It will be seen from the foregoing quotation of

the ordinance prescribing the manner of holding the special constitutional election that the "electors shall vote at the usual places of voting at general elections." Said ordinance also provides that the election shall be conducted according to the laws in force regulating "general election," with certain exceptions. In view of the fact that the constitutional convention had the authority to determine the manner in which the new Constitution should be submitted to the people, and in view of the fact that the said Convention provided that the voters should vote at the places of voting at the general election in the several counties, we must conclude that it is necessary that the precincts which are used at general elections in such counties must also be used in the special election which is to be held on February 27, 1945.

Section 11482a, page 551, Laws of 1943, authorizes county courts to consolidate precincts or election districts "in any special election for the election of delegates to a Constitutional Convention or any constitutional amendment." Whether the Legislature, by said section, intended to include a special election upon a proposed new Constitution is not clear. However, as pointed out above, the authority for controlling the manner of submitting a new Constitution to the people is vested in the Constitutional Convention itself and that Convention has prescribed that the voting shall be at the places used in general elections.

CONCLUSION

It is, therefore, the opinion of this office that the county courts cannot consolidate election precincts for the special election to be held February 27, 1945, at which a new proposed Constitution will be submitted to the voters but that said election must be held at the usual places of voting at general elections in said counties and in the City of St. Louis.

Respectfully submitted

APPROVED:

GEORGE W. CROWLEY
Assistant Attorney General

HARRY H. KAY
(Acting) Attorney General