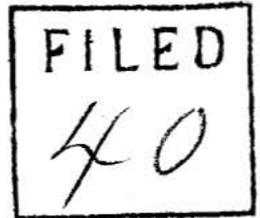


ELECTIONS:  
TAXATION  
ROADS AND BRIDGES:

*Comm. Law*

Under the provisions of Sec. 8529, Laws of 1945, page 1480, the county court may designate the places of voting for the tax increase in a general or special road district authorized by the first paragraph of Sec. 12, Art. X of the Const.

June 28, 1947



*2/15*

Honorable Wilson D. Hill  
Prosecuting Attorney  
Ray County  
Richmond, Missouri

Dear Sir:

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

"May I have an opinion as to the legality of a Special Election held under authority of R. S. 8529 (laws 1945) in which the tax rate for a general road district of this third class county was increased? The facts are as follows:

"A petition in proper form with more than ten qualified voters and taxpayers residing in Ray County, outside of any special road district, was presented to the County Court requesting an election under R. S. 8529. The County Court has always exercised jurisdiction and supervision over the roads and bridges included in this area, and it has become known as the 'County Road District' and the funds set aside for the same have been kept in 'The County Road and Bridge Fund.' The area so affected comprises eight voting precincts, which are long established and always used during County and State elections.

"There are no newspapers published within the boundaries of this area, hence three certified copies of the court order calling the election were posted within the district. The notices stated that voting would be held at two of the precincts between the hours provided for in the statute 8529. The election

was held, a majority of the votes cast favored the increase, and in due time the County Court made the authorized levy for said area.

"Several interested taxpayers and citizens who reside within the area affected, have since remonstrated with the County Court, maintaining that they were deprived of a right to vote on the proposition (1) because they had no notice of the election, inasmuch as the three certified copies of the court order were posted at areas unknown to them (2) voting was held at only two precincts, which were at points inaccessible to the voters.

"The specific question which I wish answered is this: May a County Court in a third class county, designate one or two precincts in a general road district as voting places under R. S. 8529 (1945), and hold a valid election upon the proposition of increasing tax levy, or should such election be held in each of the precincts regularly used for voting in such an area?"

We are enclosing a copy of an official opinion of this department rendered to Hon. Julian L. O'Malley under date of May 16, 1947, and copies of opinions to Hon. E. H. Stark dated February 1, 1944, and to Hon. W. W. Crockett dated January 25, 1935, referred to in the opinion to Mr. O'Malley, in order for you to determine whether or not, under the circumstances existing in your county, that part of Ray County outside of any special road district is a general road district in the contemplation of the Constitution and Section 8529, Laws of Missouri, 1945, page 1480. However, in rendering this official opinion to you, we proceed on the assumption that the part of Ray County outside of special road districts does, as a matter of fact, constitute a general road district.

Section 8529, Laws of Missouri, 1945, page 1480, provides, in part, as follows:

" \* \* \* Such call shall be made by an order entered of record setting forth the date and place of holding such election, the manner of voting and the rate of tax the court will levy,

which rate shall not exceed thirty-five cents on the hundred dollars assessed valuation on all taxable real and tangible personal property in the district. \* \* \* "  
(Emphasis ours.)

We believe that it is clear from the language of the statute above quoted that it is the duty of the county court, in ordering an election under Section 8529, to designate the place where the voting is to be held, and since the statute is clear and specific on this, it is not necessary that the county court should designate the precincts regularly used in other state and county elections.

Section 652, R. S. Mo. 1939, provides as follows:

"When any subject-matter, party or person is described or referred to by words importing the singular number or the masculine gender, several matters and persons, and females as well as males, and bodies corporate as well as individuals, shall be deemed to be included." (Emphasis ours.)

Under the provisions of this section, it is clear that the reference to "place of holding such election" includes places of holding such election, and under such section the county court was authorized to designate one or more places in the road district at which the voting should be conducted.

#### CONCLUSION

It is the opinion of this department that the county court may designate one or two precincts in a general road district as voting places for an election held under the provisions of Section 8529, Laws of Missouri, 1945, page 1480, and that it is not necessary that the county court designate as voting places each of the precincts regularly used for voting in other state or county elections.

Respectfully submitted,

C. B. BURNS, Jr.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

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