

ELECTIONS

) Voter may vote only on charter proposition when  
) submitted at primary election, *not required*  
*to vote political ballot.*

July 17, 1950

7-17-50



Honorable Paul C. Calcaterra  
Chairman, Board of  
Election Commissioners  
For the City of St. Louis  
208 South Twelfth Boulevard  
St. Louis 2, Missouri

Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"The City of St. Louis is holding its Charter Election on the same day as the Primary, August 1, 1950. The question has arisen as to whether the voter may cast a ballot for the Charter Election only, or must he also vote at the Primary Election wherein he must state his choice of party ticket.

"Please let us have your opinion as soon as possible."

We find no statutory provision or decision of any court in this state which in any way would require that a person who wishes to vote on the proposed new charter for the City of St. Louis, which is to be submitted at the primary election in St. Louis on August 1st, also participate and cast a ballot in the primary election.

The only reported case which we find which might be taken to indicate that a person must cast his ballot on all

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proposals submitted at the same election is the case of *Dysart v. City of St. Louis*, 11 S.W. (2d) 1045. In that case the court was passing upon the question of whether or not a bond issue proposal which was submitted at a regular primary election was a special election within the meaning of a provision requiring a special revision of registration prior to any special election. The court in that case stated at 11 S.W. (2d), l.c. 1052:

"The theory that a proposition, other than the election of officers, submitted on the day of a general election, is a 'special election' leads to absurd results. Some propositions or amendments are submitted by referendum, some by initiative, some by proclamations of the Governor, etc. If each were a special election we might have a dozen elections on the same day, administered by the same judges, and the voter would vote in a dozen elections, in several of them possibly on a single ballot, and the vote on all of them deposited at one and the same time.

(Emphasis ours.)

\* \* \* \* \*

" \* \* \* A proposition to issue bonds may be submitted at a regular primary election, and such submission does not constitute it a special election.

"It is a matter of common knowledge that at nearly every general election propositions are authorized and submitted to the voters as special propositions. Submissions of these special propositions are not, in common parlance, called special elections. They are merely votes on special propositions submitted at a general election."

While this language might be taken to indicate that the submission of several proposals at the same time constitutes but a single election, still there is nothing in that case to

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indicate that a voter is not entitled to choose the propositions upon which he will vote at the election and refuse to vote on others submitted at the same election.

Participation in elections in this state has always been a voluntary matter. The voter is free to vote or not as he chooses, and we see no reason why he should not be permitted to vote upon such proposition as he might see fit.

CONCLUSION

Therefore, it is the opinion of this department that a voter may cast a ballot for the charter election only, which is being held in the City of St. Louis at the same time as the regular primary on August 1, 1950, and he is not required to vote in the primary election.

Respectfully submitted,

ROBERT R. WELBORN  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

RRW/feh