

ELECTIONS:

(1) There is no law regulating or prohibiting the hiring of persons to haul voters to the polls in a primary or general election in a third class county. (2) In a county of the third class, each party committee may select a person in accordance with its bylaws to witness the counting of the ballots and such person should be admitted to the room where the ballots are being counted by the judges of the election if they are satisfied such person has been selected by the party committee.

OPINION NO. 493

October 30, 1970

Honorable Vic Downing
State Representative
One Hundred Sixtieth District
Rural Route #1
Bragg City, Missouri 63827



Dear Representative Downing:

This is in response to your opinion request, as follows:

"The Pemiscot County Fair Election Committee has requested that I obtain from you an Attorney-General's opinion on following:

"1. Legality of the hiring of cars to haul voters to the polls in primary and general elections.

"2. The duties and methods of appointment of 'poll witnesses' in primary and general elections.

"I believe this Committee is doing a good job in our County in their efforts to see that we have fair elections and I will appreciate your opinion on these questions as soon as possible."

We assume the words, "poll witnesses" you have in mind are witnesses present for a counting of the ballots.

Honorable Vic Downing

Pemiscot County is a third class county.

In regard to the first question, we enclose herewith Opinion No. 243 issued by this office September 9, 1969, holding that Section 78.550, RSMo prohibits candidates or other interested persons from hauling voters to the polls with the intent and purpose of influencing their vote. Section 78.550, supra, applies to city elections in a third class city with city manager form of government. It has no application to the state and county primary or general election.

There is no statute prohibiting or regulating the use of automobiles as such in hauling voters to the polls in primary or general elections in a third class county.

In answer to your second question as to the duties and method of appointment of "poll witnesses", in primary and general elections Section 111.501, RSMo provides in part:

"3. No person, other than the judges and clerks of election, shall be admitted into the room or office where ballots are being counted except that a political party may select a representative person who may be admitted as a witness of the counting."

This statute provides that a political party may select a representative person who may be admitted into the room or office to witness the counting of the ballots.

We are unable to find any express statutory provisions setting out the method to be used by a political party in selecting a person to witness a counting of the ballots. Section 120.750, RSMo provides for the central committee of a political party to adopt a constitution and bylaws which may be changed or amended by a majority vote of the total membership of the party committee. It is our view that a person to be admitted to the room where the ballots are counted, must be selected by the party committee in the manner and in accordance with their constitution and bylaws and the judges of the election should admit such person into the room to witness the counting if they are satisfied such person has been selected by the party committee.

CONCLUSION

It is the opinion of this office:

- (1) There is no law regulating or prohibiting the hiring

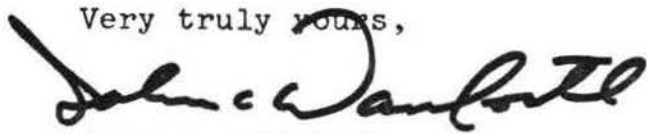
Honorable Vic Downing

of persons to haul voters to the polls in a primary or general election in a third class county.

(2) That in a county of the third class, each party committee may select a person in accordance with its bylaws to witness the counting of the ballots and such person should be admitted to the room where the ballots are being counted by the judges of the election if they are satisfied such person has been selected by the party committee.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Very truly yours,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is written in a cursive style with a large initial "J".

JOHN C. DANFORTH
Attorney General

Enclosure:

Op. No. 253
9-9-69, Batson