ELECTIONS:
WATER DISTRICTS: Special Sections 247.130 and 247.180, relating to water district election procedures were not impliedly repealed by Sections 113.490 to 113.870, providing general voting and registration laws for counties over 450,000 as enacted in 1957.

April 15, 1959

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Mr. John W. Mitchell
Secretary, Jackson County
Board of Election Commissioners
Courthouse
Independence, Missouri

Dear Mr. Mitchell:

This is in reply to your letter of April 2, 1959, requesting an opinion concerning a question which we have chosen to rephrase as follows:

> "Do Sections 113.490 to 113.870, RSMo C.S. 1957, providing for election procedure in counties over 450,000 (Jackson County outside the city limits of Kansas City) supersede or repeal Section 247.130 RSMo providing fdr water district bond elections and Section 247.180, RSMo providing that water district elections are not to be governed by 'law or laws providing for the registration of voters?'"

Under Section 247.180, RSMo 1949, water district elections are not subject to "law or laws providing for the registration of voters." This provision was enacted in the Laws of 1935, page 323, Section 14. Section 247.130, RSMo providing procedure of the conduct of water district bond elections was likewise enacted in the Laws of 1935, page 327, Section 13. Sections 113.490 to 113.870, RSMo C.S. 1957, were enacted in 1957, to become effective May 1, 1958, for the purpose of superseding the former election procedure for Jackson County and would, on first blush, seem to supersede the special sections relating to water district elections.

Section 113.490(3), RSMo, C.S. 1957, the definition section of the 1957 election enactments, defines election as "any general, special, municipal or primary election, unless otherwise specified."

Water districts have been defined as municipal corporations by our Supreme Court. See State ex rel. Halferty v. Kansas City Power and Light Co., 346 Mo. 1069, 145 SW2d 116, at page 122, wherein it was said:

> "* * * This brings us to consideration of an insistence strongly urged by appellant, viz., that the water district should be regarded as a 'municipal township' within the meaning of these taxing statutes. It, of course, is not a county nor an incorporated city, town or village. It is denominated a 'political corporation' by the act under which it was organized. It might be termed a 'municipal corporation' in the broad sense sometimes attributed to that term. * * * "

Since water districts are nowhere mentioned in Sections 113.490 to 113.870, RSMo, C.S. 1957, it is clear that there is no specific provision in these sections to repeal Sections 247.180 and 247.130, RSMo, relating to water district elections, but if those sections are to be repealed they are only impliedly repealed.

In view of the fact that repeal of Sections 247.180 and 247.130 is not mentioned by Sections 113.490 to 113.870, C.S. 1957, we have examined in detail the legislative history of the new election laws in the attempt to determine legislative intent in the matter.

Sections 113.490 to 113.870, RSMo C.S. 1957, in their present form, were introduced and first read as House Bill No. 497 by Representative Snyder of Jackson County on Thursday, March 14, 1957, page 601 of the House Journal. Its announced purpose was entitled as follows:

> "An Act to repeal sections 113.490,113.590, 113.610, 113.620, 113.660, 113.670,113.690, 113.712, 113.740, 113.790, 113.800, 113.810, 113.820, and 113.830, RSMo 1955 Supp., relating to registration of voters in counties of 450,000 inhabitants or more, and to enact in lieu thereof twelve new sections relating to the same subject."

The Missouri Senate changed House Bill No. 497 by amendment on Thursday, May 30, 1957, which amendment had the effect of deleting one paragraph from Section 113.620, RSMo, C.S. 1957, after which the Senate voted to pass House Bill No. 497 in the amended form. At no place in the record of either the House or the Senate is Section 247.180, RSMo, or Section 247.130, RSMo, specifically mentioned.

In enacting laws on a particular subject the Legislature is presumed to act with knowledge of all existing laws on the same subject. This maxim was applied by the St. Louis Court of Appeals in Sikes v. St. Louis and San Francisco R.R. Co., 127 Mo. App. 326, 105 S.W. 700, at l.c. 702, as follows:

> "* * * In examining this statute and seeking to arrive at the legislative intention therein manifested, we must do so with the knowledge that the legislature is presumed to know the existing state of the law relating to subjects with which they deal at the time they act on a given question, and therefore are deemed to have dealt with the matter in the light of the state of the law then existing. * * *"

Another familiar rule of statutory construction is that where a general statute is enacted subsequent to an earlier special statute relating to the same subject matter, the special statute will be construed as an exception to the general statute and must be expressly or impliedly repealed. See in this regard the en banc opinion of the Missouri Supreme Court, State v. Brown, 334 Mo. 781, 68 S.W. 2d 55, page 59, wherein the rule is stated as follows:

> "* * * In such case the rule applicable is that 'where there is one statute dealing with a subject in general and comprehensive terms and another dealing with a part of the same subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent legislative policy; but to the extent of any necessary repugnancy between them, the special will prevail over the general statute. Where the special statute is later, it will be

> regarded as an exception to, or qualification of, the prior general one; and where the general act is later, the special will be construed as remaining an exception to its terms, unless it is repealed in express words or by necessary implication.' Tevis et al. v. Foley, 325 Mo. 1050, 30 S.W.(2d) 68, 69; State ex rel. Buchanan County v. Fulks, 296 Mo. 614, 626, 247 S.W. 129; State ex inf. Barrett v. Imhoff, 291 Mo. 603, 617, 238 S.W. 122. If there be any repugnancy between these two statutes, the general statute, section 4556, must yield to the special statute, section 5613."

In regard to implied repeal of statutes, it is said in 82 C.J.S., Section 288, pages 479 to 486:

> "The repeal of statutes by implication is not favored. The courts are slow to hold that one statute has repealed another by implication, and they will not make such an adjudication if they can avoid doing so consistently or on any reasonable hypothesis, or if they can arrive at another result by any construction which is fair and reasonable. Also, the courts will not enlarge the meaning of one act in order to hold that it repeals another by implication; nor will they adopt an interpretation leading to an adjudication of repeal by implication unless it is inevitable and a very clear and definite reason therefor can be assigned.
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> "Furthermore, the courts will not adjudge a statute to have been repealed by implication unless a legislative intent to repeal or supersede the statute plainly and clearly appears. The implication must be clear, necessary, irresistible, and free from reasonable doubt."

This reluctance to construe a later statute as repealing a prior statute impliedly inconsistent, which later statute does not by its language act to specifically repeal the prior statute, is a maxim universally followed by the courts. A leading case setting forth this proposition as applied by the

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Missouri courts is State ex rel. Boyd v. Rutledge, an en Banc opinion by the Missouri Supreme Court, February 11, 1929, 321 Mo. 1090, 13 S.W. 2d 1061, at page 1065, wherein the court states:

> "* * * Repeals by implication are not favored - in order for a later statute to operate as a repeal by implication of an earlier one, there must be such manifest and total repugnance that the two cannot stand; where two acts are seemingly repugnant, they must, if possible, be so construed that the later may not operate as a repeal of the earlier one by implication; if they are not irreconcilably inconsistent, both must stand. * * *"

CONCLUSION

Therefore, it is the conclusion of this office that Section 247.180, RSMo, providing that water districts are to have their own exclusive election procedure and Section 247.130, providing for bond elections were not repealed by, sufficiently inconsistent with, or irreconcilable with Sections 113.490 to 113.870, RSMo C.S. 1957, relating to election procedure in counties over 450,000, to be repealed by the latter sections.

Yours very truly,

John M. Dalton
Attorney General

JMD:lc