

ELECTIONS:

Canvass to be made after all intermediate registrations as provided for in Section 11872 of the Revised Statutes of Missouri for 1939, discretionary with the Board of Election Commissioners.

January 6, 1948



Honorable John W. Mitchell  
Secretary, Jackson County  
Board of Election Commissioners  
Court House  
Independence, Missouri

Dear Sir:

This will acknowledge receipt of your letter of December 12, 1947, in which you request an opinion of this department. Omitting caption and signatures, your opinion request reads as follows:

"The Board of Election Commissioners desire an opinion and request your office to furnish same. We refer to Section 11860, Section 11869 and Section 11872 under Registration Elections - Counties of 150,000 or more. We are confronted with this problem and the question is this. Is it necessary for our Board, after having an intermediate registration under Section 11872, to follow it with a clerks' canvass under Section 11869? It will be noted that Section 11860 provides for a general registration and after said general registration a clerks' canvass shall be made, but Section 11872 or Sections thereafter do not provide for a canvass. This question has arisen, and we are in doubt as to whether or not we must have a canvass. Our Board is planning for a registration for a special city election January 6, 1948 preceding the election on January 27, 1948.

"We would appreciate your opinion as soon as possible."

Honorable John W. Mitchell

Article 17, Chapter 76, of the Revised Statutes of Missouri for 1939, provides for the registration of voters in counties of over 150,000 population. In such article and chapter is found Section 11860 which provides in part as follows:

"The Board of election commissioners and said judges and clerks shall constitute the board of registry and the judges and clerks of each precinct shall first meet under direction and control of the board of election commissioners in their respective precincts on Tuesday, five weeks before the next state, primary or general, election at the places designated by the board of election commissioners and then proceed to make a general registration of all voters in their respective precincts. The second day of registration being on Saturday following and the third day Tuesday, three weeks before such election. A general registration shall be made by the board of registry in every year thereafter in which a presidential election occurs and just prior thereto the first day of such registration being on Tuesday, four weeks before such election and the second day of such registration the Saturday following and the third day Tuesday three weeks before such election:\*\*\*\*\*  
\*\*\*\*\*."

As can be seen from the above statute, the registration of such voters pertains to the general registration which is to be held with the exception of first registrations in the year in which presidential elections occur.

Another pertinent provision of the Missouri Statutes, to-wit: Section 11872, Revised Statutes of Missouri for 1939, provides for an intermediate registration. This Section provides in part as follows:

"The board of election commissioners may from time to time, as in the judgment and discretion of the board may seem necessary cause such intermediate registration to be made in such manner and form as to said board may be deemed advisable. Said board of election commissioners may require the judges and clerks to make such intermediate registration in the

Honorable John W. Mitchell

various precincts in said county or the board of election commissioners as a board of registry may hold sessions in each township in said county for the purpose of making an intermediate registration, said board of election commissioners acting as judges the clerks of said board of election commissioners acting as registry clerks."

The preceding section of the statute authorized the Board of Election Commissioners in counties such as yours to call intermediate registrations whenever it is deemed advisable by the Board.

Another section of the Revised Statutes of Missouri for 1939 which pertains to the question raised in this opinion is Section 11869, wherein provision is made for a canvass of the voters after registration has been completed. This Section of the Statute prescribed in part the following:

"The clerks of election are hereby constituted canvassers of the precincts of which they are appointed; and upon the Thursday and Friday following the last day or registration, if so much time shall be required, the said two clerks, shall each having one of said verification lists, go together and canvass the precinct calling at each dwelling place as indicated upon said verification lists, and if they shall find that any person upon their verification lists does not reside at the place designated thereby, they shall make a check mark, or cross (X), opposite any such name. If, in making any such canvass, any person shall refuse to answer questions and give the required information asked for and known to him or her, such person shall be deemed guilty of a misdemeanor under this article and shall be liable to a penalty not to exceed \$50.00 \*\*\*\*\*."

It is apparent from the preceding provision of the statute that the canvass therein provided for by the Legislature is for the purpose of checking the addresses of the persons previously registered in the various precincts in order that illegal voting can be prevented. This being true, it seems reasonable that such a safeguard should be in effect with reference to both the regular registrations as provided for in Section 11860, *Supra*, and the

Honorable John W. Mitchell

intermediate registrations provided for under Section 11782, Supra. It does not seem reasonable to this department that it would be the intention of the Legislature in passing the above statutes that there should be a safeguard in the form of a canvass for one registration and there should be no such canvass for the other.

Our research does not reveal that there have been any decisions on these particular sections of the statutes and therefore we must look to the intention of the Legislature in construing them.

The original statutes providing for registrations of counties of the population of over 150,000 were passed in 1917 as a complete unit, at which time such legislation was known as Senate Bill No. 528, Section 23 in such Senate Bill provides as follows:

"Intermediate Registration provided for --  
At every election held in such county, between the general registration above referred to, the last general registration shall be used; but the same shall be revised by the board of registry of each precinct where such election is to be held; and, for the purpose, the board of registry shall meet on Tuesday four weeks preceding such election and shall hold a session from eight o'clock a.m. until nine o'clock p.m. on that day; and names may be added to the registers in the same way; upon sworn application, as in the case of a general registration; and all the other forms and requirements are to be observed as provided with reference to general registrations, both as regards the canvass after the registration, the revision of the registration, and otherwise."

As can be seen from the above provision, the canvass was to apply to the intermediate registration as well as to the regular registration.

In the Revised Statutes of Missouri for 1919, the preceding provision remained the same but in 1921, the Legislature repealed all of the provisions relative to registrations in Counties of the size involved, and enacted in lieu thereof thirty-seven new sections of the Statute.

Honorable John W. Mitchell

As can be seen from such provision all reference to a canvass after an intermediate registration has been omitted. The obvious intention of the Legislature at the time the original provisions were passed was that there should be a canvass made not only after the regular registration but also after any intermediate registration.

However, we again refer you to Section 11872, Supra of The Revised Statutes of Missouri for 1939 and call attention to the first sentence of such provision which prescribes the following:

"The Board of Election Commissioners may from time to time as in the judgment and discretion of the Board may seem necessary, call intermediate registrations to be made in such manner and form as to said board may be deemed advisable \*\*\*\*\*."

The Courts of this State have held that Legislative action must be construed according to the purpose of it's enactment. State vs Toombs, 25 SW (2) 101, 324 Mo. 819. It has further been held that in construing statutes that evils sought to be remedied and benefit intended to be conferred thereby should be considered. See Dodd vs Independent Stove and Furnace Co. 51 SW (2) 114, 330 Mo. 662.

It seems apparent from the above statement that the Legislation of this State intended that the advisability of making a canvass after an intermediate registration should be discretionary with the board and this Department feels that if in the discretion of the board they deem it advisable that a canvass be held after an intermediate registration that the board has the authority to order such canvass.

#### CONCLUSION

Therefore, it is the opinion of this Department that whether a canvass shall be held after intermediate registration has been held pursuant to Section 11872 of the Revised Statutes of Missouri for 1939 is within the Board of Election Commissioner's discretion.

Respectfully submitted,

APPROVED:

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Attorney General