

Election, Special, Bonds, Special Election for. Judges, Special Election. Power of County Commissioners, to Appoint Judges at Special Election.

1. The judges appointed by the commissioners prior to the last general election may legally act as judges at the special election.

2. The Board of County Commissioners at a special meeting have the authority to appoint judges to fill any vacancies.

Helena, Montana, April 12, 1909.

Honorable B. B. Law, County Attorney, Bozeman, Montana.

Dear Sir:

I am in receipt of your telephonic communication submitting the following question:

"Where a special election is held for the issuance of county bonds, is it necessary to appoint special judges, or do the judges heretofore appointed hold over, and if it is necessary to appoint special judges, have the commissioners authority to make such appointment at a special meeting?" You also refer to Sections 500 and 505 of the Revised Codes.

These sections of the code are not necessarily in conflict, although they are somewhat confusing. Section 500 refers to the general power and the duty of the board, while Section 505 is specific as to the duty of the judges appointed, among which duties are

"To continue judges of all elections to be held in their respective precincts until other judges are appointed."

The Board of County Commissioners are also given authority to fill vacancies.

From these statutory provisions we believe that the judges appointed by the commissioners prior to the last general election may legally act as judges at the special county election; that the commissioners, at a special meeting have the authority to appoint judges to fill any vacancies, for it is very apparent that if special judges shall be appointed for special elections the board may make such appointments at a special meeting; and that, if at the opening of the polls, said judges, or any of them, are not present or refuse or neglect to serve, the electors of such precinct may elect judges, as is provided in Section 504 of the Revised Codes.

However, if there is any doubt of this proposition the commissioners, at their special meeting, can appoint judges for the precinct, naming the same ones who were appointed for the last general election, except in case of vacancies, when new judges could be appointed. The judges so appointed would then be serving under both the general and special appointment.

Very truly yours,

ALBERT J. GALEN,

Attorney General.