

**Opinion No. 22-3369**

April 10, 1922

**BY:** HARRY S. BOWMAN, Attorney General

**TO:** Mr. Otto Goetz, Mayor, Hot Springs, New Mexico.

**Canvassing Boards Municipal Elections Cannot Open Ballot Boxes and Count Votes.**

**OPINION**

{\*140} In reply to your letter of the 5th instant, asking whether the Mayor and Board of Trustees of your village, in canvassing the vote of the city election held on April 4th, should count the ballots and votes in the same manner as they were counted by the election board, or whether you should merely verify the count as made by the election judges, I wish to advise you as follows:

Section 3589, Code 1915, provides that the Mayor and Clerk shall canvass the vote of municipal elections and make out an abstract and ascertain the candidates elected in all respects as required by law for the canvass of the returns of county elections, and shall, in like manner, make out a certificate as to each candidate so elected, and cause the same to be delivered to him, or to be left at his place of abode.

Section 1203, which relates to the canvassing of election returns for county elections, prescribes that the canvassing board shall determine the result of the election from the returns of the judges of election of the various precincts.

Construing these two sections together, it is clear that the canvassing board, in determining the result of a municipal election, must arrive at such results from the returns of the judges of election, and, therefore, would not be authorized to count the ballots and the votes. The board would be authorized only to verify the returns as made by the judges of election.