

Opinion No. 13-1024

April 23, 1913

BY: FRANK W. CLANCY, Attorney General

TO: Honorable Antonio Lucero, Secretary of State, Santa Fe, N. M.

COUNTY HIGH SCHOOL ELECTION.

Returns of election for establishing county high school should be canvassed by Board of County Commissioners.

OPINION

{*188} I have received your letter of even date herewith, in which you say that recently, in Lincoln County, an election was held to determine the question of establishing a county high school at Capitan, in said county, and that the election officers in some of the precincts in said county have sent the election returns to your office, and you request to be advise das to whether the returns of such election should be canvassed by the State Canvassing Board or by the County Commissioners of Lincoln County.

The election in question must have been called and held under the provision of Chapter 57 of the Laws of 1912, Section 1 of which {*189} says that the election "shall, in all matters not herein provided for, be called, conducted and the returns made and canvassed as now provided by law for the election of county officers." I know of no provision of law which authorizes the canvassing of returns of the election of county officers by the State Canvassing Board, and I am of opinion that such returns must be canvassed by the County Commissioners. Therefore, the returns of the election, about which you write, should be made to the Board of County Commissioners and canvassed by that board.

The confusion or uncertainty must have arisen from the fact that, under the Enabling Act and the Constitution, the returns of the first state election, including county officers, were sent to the office of the Secretary and canvassed by the State Canvassing Board. These provisions, however, related only to that first election, leaving in force the territorial statute as to the returns of the election of county officers.