

ELECTIONS -A voter registered in a precinct cannot  
vote therein after moving permanently  
to another precinct

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August 19, 1938

Mr. H. D. Allison  
County Clerk  
Buchanan County  
St. Joseph, Missouri



Attention of Mr. H. R. Hargrove  
Chief Deputy

Dear Sir:

We have received your letter of July 16, which  
reads, in part, as follows:

"I would like to have a legal  
opinion on the following ques-  
tion.

"If a person has registered  
under the permanent registra-  
tion system and moves his  
residence but fails to come  
to this office to make the  
proper change of address on  
his registration card, may he  
be allowed on election day to  
go back to the precinct in which  
he is registered and vote under  
his former address? "

In using the term "moves his residence," we  
presume you mean a situation where the person entirely  
abandons his former residence from which he is registered  
and intends to reside in the future for all purposes in  
another precinct.

"Residence" is a matter largely of intention.  
The St. Louis Court of Appeals, in determining that a

student had the right to vote in the city where he was attending school, if he had abandoned his former residence, said, in the late case of Chomeau v. Roth, 72 S. W. (2d) 997, 1. c. 999:

"\*\*\*\* an actual residence, coupled with the intention to remain either permanently or for an indefinite time, without any fixed or certain purpose to return to the former place of abode, is sufficient to work a change of domicile. Nolker v. Nolker (Mo. Sup.) 257 S. W. 798; Finley v. Finley, (Mo. App.) 6 S. W. (2d) 1006."

It would follow that if a person moved out of a precinct, or a city, or a state, to another place with "the intention to remain either permanently or for an indefinite time, without any fixed or certain purpose to return to the former place of abode," he would no longer be a resident of such precinct, city or state from which he moved. He would have abandoned entirely his former residence. In connection with the question you have asked, he would no longer be a resident of the precinct from which he is registered.

Section 10178, Revised Statutes Missouri 1929, provides, in part, that:

"Each voter shall vote only in the township in which he resides, or if in a town of city, then in the election district therein in which he resides."

As was said in the case of Hall v. Schoenecke, 128 Mo. 661, 1. c. 670:

"Contestant insists that an elector, in voting for a general officer of a city or town, as mayor, is entitled to vote in any election district in

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such town or city. In answer to the contention we need only say that the statute provides otherwise. A citizen of a town is only qualified as a voter, and entitled to vote, in the election district therein in which he resides. Revised Statutes, sec. 4670."

Furthermore, the laws of Missouri, 1937, pages 278 to 289, contain a new system of registration applicable to the City of St. Joseph as a city of the first class. Section 5 thereof, in prescribing some of the duties of the judges of election, provides that

"The judges of election shall permit no person to vote unless properly identified as a resident of the precinct and registered as such \*\*\*\*\*."

#### CONCLUSION

It follows, therefore, that if a person registered under the permanent registration system in a certain precinct moves therefrom to another precinct, permanently or for an indefinite time without any fixed or certain purpose of returning, he is no longer a resident of such first precinct and can no longer vote therein. One must be a resident of and properly registered in a precinct in order to be entitled to vote.

Respectfully submitted

J. F. ALLEBACH  
Assistant Attorney General

APPROVED

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J. E. TAYLOR  
(Acting) Attorney General

JFA LC