

ELECTIONS: Election precincts in the City of St. Louis may be
PRECINCTS: established according to the number of registered
voters rather than the population of an area.

OPINION NO. 175

March 2, 1966



Mr. Francis M. O'Brien, Secretary
Board of Election Commissioners
1111 Title Guaranty Building
706 Chestnut Street
St. Louis, Missouri 63101

Dear Mr. O'Brien:

Reference is made to your letter of February 4, 1966, wherein you requested a formal opinion from this office as follows:

"That the Board of Election Commissioners also has the statutory duty to establish precincts of not more than 700 voters.

Now, considering the duties and responsibilities of the Board of Election Commissioners in the light of the foregoing, is the St. Louis Board of Election Commissioners to establish and equalize election precincts by considering only registered voters in such establishment, or are we required under the Supreme Court edict to establish and equalize precincts on the basis of population, and of this matter we require an opinion."

It is assumed that the "Supreme Court edict" to which you refer in your opinion request is the so-called "one man--one vote" principle enunciated by the Supreme Court of the United States in a series of cases in recent years. Baker v. Carr, 369 US 186 (1962); Wesberry v. Sanders, 376 US 1 (1964); and Reynolds v. Simms, 377 US 533 (1964) are landmark decisions by the United States Supreme Court which hold that districts for representatives in the Congress of the United States and legislative districts for both houses of state legislatures must be substantially equal in population. Other cases have arisen throughout the country in regard to the application of the principles announced in these landmark cases to districts of local governmental entities, such as the board of aldermen of municipalities and districts making up county governments. No opinions by the Supreme Court have been written as of this date applying the "one man--one vote" principle to local governmental units. However, some decisions by United States District Courts have held that the principle does apply to local governmental units.

Mr. Francis M. O'Brien

The Board of Election Commissioners of the City of St. Louis is required by law to establish election precincts pursuant to Sections 118.150, 118.153, and 118.156, RSMo 1959. Since all election precincts in the City of St. Louis use voting machines, the following provision of Section 118.153 (2) is applicable to the question you have raised:

"2. Every election precinct established for the use of voting machines shall be composed of compact and contiguous territory and shall not contain in excess of approximately seven hundred voters. The election authority shall regard ward lines where such lines exist, but otherwise may revise, subdivide or rearrange any precinct or precincts at any time it may deem necessary."

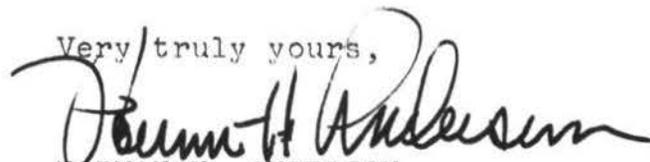
It will be noted that the cited statute provides for the establishment of election precincts containing not in excess of seven hundred voters. No reference is made to the population of a precinct as such. It is also noted that no governmental functions are assigned to precincts. Precincts are established for the convenience of conducting elections. The convenience of conducting elections may be affected by the number of voters casting ballots at any particular place. The population of a precinct enters into the convenience of conducting elections only insofar as the number of voters may be reflected by such population. However, the number of registered voters in any particular place may be a more accurate measure of the necessity for voting accommodations than the population of the area itself.

CONCLUSION

It is the opinion of this office that the Board of Election Commissioners of the City of St. Louis is required by law to establish precincts to contain not in excess of approximately seven hundred voters. In dividing areas into precincts of approximately seven hundred voters, the Board of Election Commissioners may consider only the registered voters in such area.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Thomas J. Downey.

Very truly yours,



NORMAN H. ANDERSON
Attorney General