

ELECTIONS: Only counties comprising old senatorial
GENERAL ASSEMBLY: district entitled to vote in special
LEGISLATURE: SENATE:
STATE SENATE: election for senator to fill vacancy for
remainder of term.

August 21, 1952

8-2257



Honorable Forrest Smith
Governor of Missouri
Jefferson City, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department, and reading as follows:

"The late Senator Frisby was elected from old Senatorial District No. 14 in 1950. His death occurred, you probably know, after the state had been laid off into new senatorial districts, and old District No. 14, together with the two additional counties of Linn and Chariton, now constitutes Senatorial District No. 12.

"I plan to issue a writ of election for the first Tuesday after the first Monday in November to fill the vacancy, so I would appreciate being advised by you of the counties which legally should participate in such election."

Article III, Section 11, of the Constitution of Missouri, provides as follows:

"The first election of senators and representatives under this Constitution, shall be held at the general election in the year one thousand nine hundred and forty-six when the whole number of representatives and the senators from the districts having even numbers, who shall compose the first class, shall be elected, and two years thereafter the whole number of representatives and the senators from

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districts having odd numbers, who shall
compose the second class, shall be elected,
and so on at each succeeding general election."

Under the provisions of such section a state senator was elected in November, 1950, from State Senatorial District No. 14 which was comprised of the counties of Worth, Gentry, Harrison, Mercer, Grundy, Putnam and Sullivan. Report of First Senatorial Redistricting Commission, provided for by Article III, Section 7, Constitution of Missouri (Section 22.010, RSMo 1949).

On July 11, 1951, the final report of the State Senatorial Redistricting Commission, appointed under provisions of Article III, Section 8, Constitution of Missouri, after the United States census of 1950 was completed, was filed in the office of the Secretary of State of Missouri. Such report shows that new Senatorial District No. 12 will be composed of the counties of Worth, Gentry, Harrison, Mercer, Grundy, Putnam, Sullivan, Linn and Chariton. The term for which the state senator from the 14th Senatorial District was elected in 1950, of course, was a four year term. The term for which his successor is to be elected, at the election for which you are to issue a writ, will be for the remainder of such term.

We believe it to be clear, therefore, that the election of a state senator to serve out the unexpired term of a senator elected from the 14th District in 1950 can be held only in those counties which constituted such 14th District at the time of the election in 1950.

Since under the provisions of Article III, Section 11, Constitution of Missouri, quoted supra, a state senator was elected in 1950 for a four year term from the 12th Senatorial District, it is obvious that the counties now a part of the new 12th Senatorial District have no right to participate in electing a senator from such 12th Senatorial District because there is now a senator serving from such district. The senator to be elected is one who will finish out the unexpired term of the senator from the 14th Senatorial District and must, of necessity, be elected only by the people who live in such senatorial district as it existed at the time the senator whose term he is to fill out was elected.

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CONCLUSION

It is the opinion of this department that a state senator to be elected to fill out the term of a state senator elected from Senatorial District No. 14 in 1950 is to be voted on only by the voters living in the counties which constituted such senatorial district in 1950.

Respectfully submitted,

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APPROVED:



J. E. TAYLOR
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CBB:ml