

ELECTIONS:
COUNTY COURTS:

County court of Greene County has exclusive jurisdiction to establish boundaries of election precincts for general, primary and special elections.

January 11, 1954



Honorable Douglas W. Greene
Prosecuting Attorney
Greene County
Springfield, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this department reading in part as follows:

"Since the City of Springfield has adopted a charter and established the City Manager form of government, the City Council has divided the various voting wards into precincts with certain of the wards having as many as seven precincts.

"The question has arisen as to whether the County Court or the City Council has the power to designate the polling places for the various wards, and I have been unable to find any statutory or case law which clarifies this problem.

* * *

"Our problem is to determine who has the final say-so as to the location of polling places in general, special or primary elections.

"We would appreciate any information that you could furnish us concerning this problem,

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as arrangements have to be made many months in advance for the coming primary elections."

For some years after the formation of the State of Missouri all elections were conducted on the basis of the several municipal townships being the voting precincts. However, as the population of the state became greater it was necessary to provide for smaller voting units. Consequently, in 1845 an Act was passed dealing in a special way with the establishment of voting precincts. This Act has remained unchanged until this time, and now appears as Section 111.220, RSMo 1949. It reads as follows:

"Establishment and alteration of election districts or precincts.--The county courts of the several counties in this state shall have power to divide any township in their respective counties into two or more election districts, or to establish two or more election precincts in any township, and to alter such election districts and precincts, from time to time, as the convenience of the inhabitants may require."

For its historical interest Section 111.240, RSMo 1949, is quoted. This statute also formed a part of the Act of 1845 and has also remained unchanged until this time. It reads:

"Elections conducted in districts or precincts as in townships.--The place of holding the election shall be designated, and the judges and clerks of election appointed in such districts or for such election precincts, and the elections therein shall be conducted, in all respects, in the same manner as is herein provided by law for the townships." (Emphasis ours).

While not material to your particular inquiry, it is of some interest to note that after the General Assembly of Missouri had provided for the organization of counties on a township basis for the discharge of governmental affairs, similar provision was made with respect to the division of municipal townships into election precincts by the county courts of counties operating under the township form of government. This statute

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first appeared in 1873 and now is found as Section 65.070, RSMo 1949. With the further passage of time and the development of large urban areas of population many of the functions which had previously been discharged by county courts with respect to the conduct of elections have been transferred to boards of election commissioners. In some of these areas the power to establish voting precincts has also been transferred to such boards, particularly in class one counties where we find Section 113.090, RSMo 1949, dealing with this subject, and Section 113.590, RSMo 1949, dealing with the same subject matter. However, it must be remembered that these are but minor exceptions to the general rule conferring such power upon the county courts in the respective counties, and have been designed to take care of the peculiar conditions arising in the urban centers to which they relate.

We have carefully examined the various statutes relating to the conduct of elections in cities of fifty to one hundred thousand inhabitants, in which category the City of Springfield falls, and while we find that adequate provision has been made for the establishment of voting precincts for the conduct of municipal elections; we fail to find that any deviation from the general rule with respect to general, primary and special elections has been effectuated. We note that Sections 75.060, 116.140 and 122.470, RSMo 1949, all deal with the conduct of municipal elections. With respect to these elections the council for the City of Springfield has undoubted authority to establish and alter as may be required such election precincts as may be proper and necessary to permit the free expression of the electorate upon questions of public policy submitted to them. However, at no place does it appear that the power to establish or alter such election precincts for general, primary and special elections has been divested from the county court.

CONCLUSION

In the premises we are of the opinion that the county court for Greene County has the power to establish and alter as may be necessary or convenient to insure a full and free expression of the electorate of that county, such election precincts as may be desired for all general, primary and special elections within and without the corporate limits of the City of Springfield; and to designate the polling places in such precincts.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Will F. Berry, Jr.

Yours very truly,

JOHN M. DALTON
Attorney General