

ELECTIONS:  
COMMISSIONERS OF ST. LOUIS  
CITY CANNOT CHANGE CONGRESSIONAL  
DISTRICT BOUNDARIES:

Article III, Section 45 of the  
1945 Missouri Constitution and  
Chapter 128 RSMo 1949 as amended  
by RSMo Cumulative Supplement  
1955, pages 270 and 271,  
authorizes General Assembly

only to subdivide state into congressional districts and change boundaries of same. Board of Election Commissioners of City of St. Louis cannot change boundaries of First and Third Congressional Districts in city.

February 23, 1956

Honorable Michael Doherty, Chairman  
Board of Election Commissioners  
208 South 12th Boulevard  
St. Louis 2, Missouri



Dear Mr. Doherty:

This department is in receipt of your recent request for a legal opinion reading as follows:

"In re: Opinion concerning Wendell Pruitt  
Housing Units Nos. Mo. 1-4 and  
Mo. 1-5 in the vicinity of Jeffer-  
son, Carr, Hogan and Cass Avenues.

"Dear General:

"The above stated housing units has the district line dividing the First and Third Congressional Districts running through the buildings. The one main entrance to these buildings is located in Congressional District No. 3. It is very evident that the district lines followed the streets at the time they were laid out, however, in the planning and construction of this particular unit, the streets were eliminated and the Board of Election Commissioners is vitally concerned over the district line running through these buildings with only one main entrance as aforesaid, and we are desirous of obtaining an opinion from your office as to whether or not we could place the entire buildings in the district wherein the entrance is located, or what other action in your opinion, if any, can we take concerning the division of those districts by said district line running through these buildings.

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"May I further advise you that in this particular project above mentioned there are three separate buildings affected, and that the said congressional district line cuts through said buildings.

"Will you, therefore, be kind enough to render an opinion to this office as to whether or not we can place the entire unit of buildings in the congressional district wherein the entrance is located, or what action can this Board take to remedy this situation."

We understand the inquiry to be whether or not the Board of Election Commissioners of St. Louis, Missouri, can alter or change the boundaries of Congressional District No. 3, so as to include territory now in District No. 1, in order that all of the buildings in the Wendell Pruitt Housing Unit will be in District No. 3.

Chapter 118, RSMo 1949, is in regard to the registration of voters and conducting of elections in cities containing over 600,000 inhabitants, and is applicable to the City of St. Louis. Section 118.150 requires the Board of Election Commissioners of such cities to divide them into election precincts, and to revise and rearrange same.

Sections 118.153 and 118.156, RSMo Cumulative Supplement 1955, provide how an election precinct should be established, consolidated, and elections conducted in such cities when voting machines are used. Section 118.150, RSMo 1949, reads as follows:

"It shall be the duty of the board to divide and keep divided such cities into election precincts regarding ward lines, where such lines exist, and composed of compact and contiguous territory, which shall contain so far as practicable approximately five hundred voters. The board may revise, subdivide or rearrange any precinct or precincts at any time it may deem necessary. The precincts in each ward shall be numbered from one upward, consecutively. In special election the board may at its discretion for the purpose of such election consolidate two or more precincts into one and use only one set of precinct officials for such election."

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Article III, Section 45, Constitution of Missouri, 1945, provides how congressional apportionment shall be made, and reads as follows:

"When the number of representatives to which the state is entitled in the house of the congress of the United States under the census of 1950 and each census thereafter is certified to the governor, the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled, which district shall be composed of contiguous territory as compact and as nearly equal in population as may be."

Chapter 128, RSMo 1949, is in regard to election of electors, electoral districts and congressional districts. We are concerned here only with that portion of the chapter dealing with subdividing the state into congressional districts. Said portion of the chapter has been repealed and new sections have been enacted, as shown at pages 270 and 271, RSMo Cumulative Supplement, 1955. We note that under these statutes the state has been subdivided into eleven congressional districts. Section 128.211 fixes the boundaries of the First Congressional District and is composed of territory in St. Louis City and St. Louis County. Said section reads as follows:

"The first district shall be composed of the following townships from St. Louis County, St. Ferdinand, Airport, Normandy, Washington, Midland; and the following wards and precincts in the city of St. Louis; Ward 1, precincts 1 to 28, inclusive; ward 2, precincts 1 to 28, inclusive; ward 3, precincts 1 to 30, inclusive; ward 4, precincts 1 to 12, inclusive, and precincts 21, 22, 23, 27, 30; ward 5, precincts 2, 3, 4, 5, 6, 7, 8, 15, 16, 17, 18, 23, 24, 25, 26, 27, 28; ward 18, precincts 4, 5, 6; ward 19, precincts 6, 7, 21; ward 20, precincts 1 to 26 inclusive; ward 21, precincts 1 to 26 inclusive; ward 22, precincts, 1 to 28, inclusive; ward 26, precincts 4, 5, 6, 7, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25; ward 27, precincts 1 to 25, inclusive; ward 28, precincts 12, 13, 14, 15, 16."

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Section 128.231, fixes the boundaries of the Third Congressional District which is composed of wards and precincts in the City of St. Louis. Said section reads as follows:

"The third district shall be composed of the following wards and precincts in the city of St. Louis; ward 4, precincts 13, 14, 15, 16, 17, 18, 19, 20, 24, 25, 26, 28, 29; ward 5, precincts 1, 9, 10, 11, 12, 13, 14, 19, 20, 21, 22, 29, 30; ward 6, precincts 1 to 31, inclusive; ward 7, precincts 1 to 31, inclusive; ward 8, precincts 1 to 28 inclusive; ward 9, precincts 1 to 29, inclusive; ward 15, precincts 1 to 27, inclusive; ward 16, precincts 1 to 27, inclusive; ward 17, precincts 1 to 26, inclusive; ward 18, precincts 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29; ward 19, precincts 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29; ward 23, precincts 13, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; ward 24, precincts 1 to 28, inclusive; ward 25, precincts 1 to 24, inclusive; ward 26, precincts 1, 2, 3, 8, 9, 10, 11, 12, 13, 14, 15, 26, 27; ward 28, precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26."

Section 118.150, supra, makes it the duty of the board of election commissioners to divide and keep divided, the City of St. Louis into election precincts, with reference to ward lines (if any) so that the territory of each shall be compact and contiguous and contain approximately five hundred voters. It shall be the further duty of the board to revise, subdivide, or rearrange any precinct when it is believed such action is required.

In view of the statutory duties of the board, it might be contended that the board would be authorized to rearrange the precincts in any manner they believe to be necessary, and they could take any precinct or ward from one congressional district and place it in another one. With such a contention we do not agree for very obvious reasons.

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Section 118.150, supra, gives the board the power to divide the city and keep it divided into election precincts with respect to ward lines, where they exist, and to rearrange such precincts within the respective wards. No power is given the board either expressly or impliedly by this, or any other section of the statutes to take wards or precincts from one congressional district and place them in another one. In fact no mention is made of congressional districts whatsoever in Section 118.150, supra. Shifts of this nature would in fact be the altering or changing congressional district boundaries by the board, who would be given the final determination as to what congressional district a territory should be located in, and thereby defeat the action of the Legislature in fixing the congressional district boundaries.

We repeat that the General Assembly has divided the state into eleven congressional districts and has fixed the boundary of each as required by the constitution. While it is unfortunate that the buildings of the housing units referred to in the opinion request are located within the First and Third Congressional Districts, apparently it would be more practical to have all the buildings located in one congressional district. However, since the General Assembly is the governmental body authorized by law to change or alter the boundaries of the congressional districts in the state, the present situation now existing in St. Louis is one which must be brought to the attention of the lawmakers in the hope that they may see fit to make the proposed change of boundaries of said congressional districts.

In view of the foregoing and in answer to the inquiry of the opinion request it is our thought that the board of election commissioners lacks the power, and can in no way alter or change the boundaries of the First and Third Congressional District in the City of St. Louis, Missouri, by taking territory from the First District and placing it in the Third District.

#### CONCLUSION

It is the opinion of this department that Article III, Section 45 of the 1945 Missouri Constitution, and Chapter 128, RSMo 1949, as amended by RSMo Cumulative Supplement 1955, pages 270 and 271, authorizes the General Assembly only, to subdivide the state into congressional districts and to change the boundaries of said districts as necessity may require. The board of

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election commissioners of the City of St. Louis, Missouri, lacks the power, and cannot change the boundaries of the First and Third Congressional Districts in said city by taking territory from the First and placing it in the Third District.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Paul N. Chitwood.

Yours very truly,

John M. Dalton  
Attorney General

PNC:ma,vlw