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OPINION NO. 352
ANSWERED BY LETTER

December 10, 1963

Honorable Don F. Whitcraft
Prosecuting Attorney
Cass County
Harrisonville, Missouri

Dear Mr. Whitcraft:

This is in response to your request for an opinion of this office which request reads as follows:

> "Cass County at its last general election adopted the Local Option County Registration Law (Chapter 114).
>
> "The City of Belton (in Cass County) has by ordinance adopted Senate Bill No. 227 of the 72nd General Assembly, known as section 114.047.
>
> "Prior to the City of Belton adopting section 114.047 the county of Cass had spent considerable time at considerable expense organizing its voter registration. In doing so it established precincts extending beyond the corporate limits of the City of Belton. Now it would appear that the county will have to re-organize these precincts so as to confine them within the city limits and establish precincts out in the county. At whose expense will this reorganizing of precincts be; the county or the city?

> "I also note in paragraph 2 of section 114.047 that 'No election precinct established in the city, town or village under the provisions of this chapter shall embrace territory outside the corporate limits of the city, town or village'. Is this provision to be interpreted literally so that no precincts shall extend beyond the corporate limits of any city, town or village regardless of whether they have adopted section 114.047? You'll note the provision uses the word 'chapter' and not 'section'.
>
> "We anticipate many problems on this section 114.047 in the near future and would appreciate your opinion on the points I have touched on."

We believe that the reorganization of precincts required under the new ordinance should be accomplished at the expense of the county. This conclusion is based upon the provisions of subsection 1 of Section 114.110, Cum. Supp. 1961, which reads:

> "The county court shall provide for and pay the expenses incurred under the operation of this chapter."

We are of the further opinion that the first sentence of subsection 2 of Section 114.047, V.A.M.S., 1963, applies only to those cities, towns and villages which have adopted Chapter 114. Election precincts are established under the authority of Chapter 111, RSMo 1959, not Chapter 114. Hence, the phrase "under the provisions of this chapter" appearing in subsection 2 must be read so as to apply only to cities, towns and villages which have brought themselves under Chapter 114 by adopting it. Therefore, when election precincts are established by a county which has adopted Chapter 114 prior to the adoption of such chapter by a city, town or village, precincts may be established which are partly within and partly without the incorporated area. However, such procedure would invite a situation, such as that which has arisen here, wherein new precincts must be established upon the subsequent adoption by a city, town or village of Chapter 114.

Honorable Don F. Whitcraft

From the date of your letter, it appears that the ordinance in question was adopted by the City of Belton prior to October 13, 1963, the effective date of Senate Bill No. 227. In these premises, we would seriously question the validity of an ordinance passed in accordance with the provisions of a statute which had not come into effect at the time of the enactment of the ordinance.

For your information we are forwarding herewith a copy of an opinion request answered by letter of advice to the Honorable Ronald Belt on July 18, 1963, which holds that a city may not validly enact an ordinance pursuant to statutory authorization prior to the effective date of the authorizing statute.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

Enclosure