

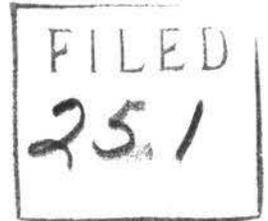
VOTING:  
MILITARY PERSONNEL:  
NON-PAYMENT OF TAXES:

Military Personnel, at Fort Leonard Wood who are qualified may register and vote in County where reservation is located, if they have established residence in the State of Missouri. Non-payment of taxes cannot disqualify them.

Opinion No. 251

July 14, 1966

Honorable Arthur B. Cohn  
Pulaski County Prosecuting Attorney  
Waynesville, Missouri



Dear Mr. Cohn:

We are in receipt of your letter of March 24, 1966, wherein you request an opinion from this office. Your letter is as follows:

"\* \* \* Would you please furnish me with an opinion on whether or not military personnel living on the reservation of Ft. Leonard Wood would be entitled to register and vote in local elections if they have resided on the military reservation for a year or longer. Also, I would like to know in this opinion whether or not military personnel who have the required time in the state of Missouri, and who are residing on the military reservation are entitled to vote if they do not pay taxes in the county."

First, you inquire as to the rights of military personnel to register and vote in the county in which a federal reservation is located.

Article VIII, Section 2 of the Constitution of the State of Missouri as amended, is as follows:

"All citizens of the United States, including occupants of soldiers' and sailors' homes, over the age of twenty-one who have resided in this state one year, and in the county, city or town sixty days next preceding the election at which they offer to vote, are entitled to vote at all elections by the people. Citizens of the United States who are otherwise qualified to vote under this section and who have resided in this state sixty days or more, but less than one year, prior to the date of a presidential election may be permitted by law to vote for presidential and vice presidential electors at

such election but for no other officers. No idiot, no person who has a guardian of his or her estate or person and no person while kept in any poorhouse at public expense or while confined in any public prison shall be entitled to vote, and persons convicted of felony, or crime connected with the exercise of the right of suffrage may be excluded by law from voting. All persons voting for the presidential and vice presidential electors under the sixty day resident provision shall sign an affidavit as to their eligibility to vote under said section, and any person who falsifies said affidavit shall, upon conviction, be deemed guilty of a felony."

Section 111.060 RSMo., 1959, also sets forth the qualifications of voters in this state. It is as follows:

"All citizens of the United States, including residents of soldiers' and sailors' homes, over the age of twenty-one years who have resided in this state one year, and the county, city or town sixty days immediately preceding the election at which they offer to vote, and no other person shall be entitled to vote at all elections by the people. Each voter shall vote only in the township in which he resides, or if in a town or city, then in the election district therein in which he resides. No idiot, no insane person and no person while kept in any poorhouse at public expense or while confined in any public prison shall be entitled to vote at any election under the laws of this state; nor shall any person convicted of a felony, or of a misdemeanor connected with the exercise of the right of suffrage, be permitted to vote at any election unless he shall have been granted a full pardon; and after a second conviction of felony or of a misdemeanor connected with the exercise of the right of suffrage, he shall be forever excluded from voting."

It will be seen from a reading of these two authorities that the only requirement is that a voter be a citizen of the United States, over the age of twenty-one, and a resident of this state at least one year, and in the county, city or town sixty days, all preceding the election at which he intends to vote. In a presidential election they may vote if a resident of the state at least sixty days prior to the election date.

The only question to be resolved is whether or not a military reservation or post is "in the state."

This office issued an opinion, No. 185, on November 27, 1963, directed to Honorable Paxton P. Price, State Librarian. Although this opinion was not on the precise question under discussion here, the opinion discussed at length the right to vote of military personnel, who reside on United States bases, and who are qualified under Article VIII, Section 2, and Section 111.060, as set forth above. A copy of this opinion is attached hereto. The opinion concludes that persons residing on territory of federal military bases may be entitled to vote within the states, where the bases are located for the reason that such persons are living in and can establish residence in such states. See p. 5 of the attached opinion and the authorities cited therein.

In the very recent case of Harper vs. Virginia State Board of Elections, 16 L. ed. 2d 169, 86 Supreme Court Reporter 1079, the United States Supreme Court held that voter qualifications which were discriminatory are contrary to the 14th amendment of the Constitution of the United States. The Court said Sup. Ct. Rep. 1.c. 1081:

"\* \* \* Our cases demonstrate that the Equal Protection Clause of the Fourteenth Amendment restrains the States from fixing voter qualifications which invidiously discriminate. Thus without questioning the power of a State to impose reasonable residence restrictions on the availability of the ballot (see Pope v. Williams 193 U.S. 621), we held in Carrington v. Rash, 380 U.S. 89, that a State may not deny the opportunity to vote to a bona fide resident merely because he is a member of the armed services. 'By forbidding a soldier ever to controvert the presumption of non-residence, the Texas Constitution imposes an invidious discrimination in violation of the Fourteenth Amendment.' Id., at 96. And see Louisiana v. United States, 380 U. S. 145. Previously

Honorable Arthur B. Cohn

we had said that neither homesite nor occupation 'affords a permissible basis for distinguishing between qualified voters within the State.' Gray v. Sanders, 372 U. S. 368, 380. We think the same must be true of requirements of wealth or affluence or payment of a fee."

Your second question is, may military personnel, who have resided on a military reservation for the required time, vote, "if they do not pay taxes in the county."

There is no statute in this state requiring the payment of any taxes as a pre-requisite to voting, and our courts have held that such a requirement cannot be imposed.

The Harper case, supra, also held that the requirement that a poll tax be paid as a condition to the exercise of the franchise violated the United States Constitution, 1. c. 1081:

"We conclude that a state violates the Equal Protection Clause of the Fourteenth Amendment whenever it makes the affluence of the voter or payment of any fee an electoral standard. Voter qualifications have no relation to wealth nor to paying this or any other tax."

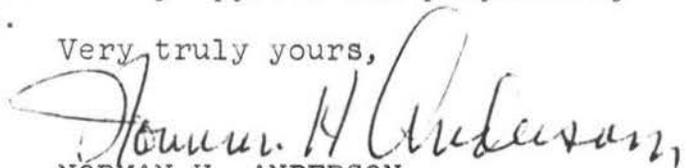
#### CONCLUSION

It is the opinion of this office that military personnel, stationed at Ft. Wood, who are otherwise qualified, may register and vote in the county in which the federal reservation is located, provided they have established residence in the State of Missouri.

It is the further opinion of this office that the non-payment of taxes cannot disqualify them.

The foregoing opinion which I hereby approve was prepared by my assistant, O. Hampton Stevens.

Very truly yours,



NORMAN H. ANDERSON  
Attorney General