

June 15, 1966



Honorable Eugene F. Mazzuca
Representative, 2nd District
City of St. Louis
6215 Victoria Avenue
St. Louis, Missouri

Dear Representative Mazzuca:

This letter is in response to your request for an opinion dated May 20, 1966, relating to a candidate for state representative who has filed for the 67th District, whereas you state the candidate actually resides in the 69th District. This inquiry really involves the question of whether such a candidate is eligible to become a representative as provided by Article III, Section 4, of the Constitution, which provides:

"Each representative shall be twenty-four years of age, and next before the day of his election shall have been a qualified voter for two years and a resident of the county or district which he is chosen to represent for one year, if such county or district shall have been so long established, and if not, then of the county or district from which the same shall have been taken."

The Constitution, however, further provides in Article III, Section 18, as follows:

"Each house shall appoint its own officers; shall be sole judge of the qualifications, election and returns of its own members; * * *"

Under this provision of the Constitution the power to determine the eligibility of a person to hold the office of state representative is vested solely in the House of Representatives and

Honorable Eugene F. Mazzuca

can not be determined either by the Courts, the Executive Branch of the Government or by administrative officers.

We are not unmindful of the case of Mansur vs. Morris, 196 S.W. 2d 287, in which, among other things, it considers the application of Section 120.440 RSMo 1959. Mansur involved the eligibility of a candidate for Magistrate under the Constitution. It did not involve a candidate for State Representative. The opinion makes no reference whatever nor considers Section 18, Article III of the Constitution. We therefore conclude that the Board of Election Commissioners nor this office has authority to rule that a candidate for State Representative may be ineligible to hold the office if elected. We enclose herewith a copy of an opinion of a former Attorney General dated May 13, 1954, to Michael J. Doherty which rules this question.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

Enclosure