

March 27, 1972

OPINION LETTER NO. 117
Answer by Letter - Burns

Honorable Harold F. Reisch
State Representative, District 119
Room 235 Capitol Building
Jefferson City, Missouri 65101



Dear Representative Reisch:

This is in answer to your recent opinion request in which you ask as to the meaning of the phrase "municipal townships" as used in Section 49.010, RSMo 1969; whether the term "municipal townships" as used in Section 49.010 means "townships" as such word is used in Section 47.010, RSMo 1969, and also asking whether counties not operating under the township organization form of government are required to comply with the requirement in Section 49.010, that county court districts be as nearly equal in population as practicable.

We are enclosing several opinions of this office which we believe answer your questions.

Opinion No. 427, rendered December 27, 1962 to Larry M. Woods, applicable to Boone County, a county not under the township organization form of government, holds that Section 49.010 is applicable to such county and that county judge districts cannot divide municipal townships in such county.

Opinion No. 114, rendered March 30, 1965 to Clifford A. Falzone, applicable to Randolph County, a county not under township organization form of government, holds that the provisions of Section 49.010 are applicable to such county and that under provisions of Section 47.010 the county court of such county has power to divide a city in the creation of townships.

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Opinion No. 166, rendered May 24, 1965 to Gerald Kiser, applicable to Clay County, a county not under township organization form of government, holds that under provisions of Section 49.010 the county court has a right and a duty to create county judge districts as nearly equal in population as practicable.

Opinion No. 5, rendered June 19, 1952 to Charles V. Barker, applicable to Polk County, a county not under township organization form of government, holds that the county court by formal order may change the county judge districts at any of its regular terms.

We believe it to be clear from the enclosed opinions that "municipal townships" as such phrase is used in Section 49.010 does encompass the term "townships" used in Section 47.010 and that counties not under township organization form of government are required to comply with the provisions of Section 49.010 and to create county judge districts as nearly equal in population as practicable.

In connection with the definition of "municipal township" we call your attention to the case of Union Township v. Cotton Hill Township, 294 Mo. 538. The Supreme Court in that case quoted from the decree of the circuit court of Dunklin County. Such decree discloses that prior to 1872 the county was divided into municipal townships under what is now Section 47.010, RSMo 1969 but the records of the county were destroyed in 1872 and at that time the county court re-established the boundaries of the townships and that such county did not adopt township organization form of government until the year 1914. Quoting from the circuit court decree, the court said l.c. 542:

"On this 25th day of February, 1921, this cause having been heretofore submitted upon the pleadings and the proof adduced by the plaintiffs and the defendants, and the court, having duly considered the same, doth find that Union Township and Cotton Hill Township are municipal townships in Dunklin County, Missouri; that prior to the year 1872 said county had been divided into municipal townships, two of which were those named above, and that the records of the county having been destroyed by fire the county court of said county, on the 8th day of October, 1872, during the October term of said court, re-established of record the boundaries of said municipal townships, . . ."

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You will note that the reference of the court to the division into townships under what is now Section 47.010 characterized them as "municipal townships".

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosures: Op. No. 427
12/27/62, Woods

Op. No. 114
3/30/65, Falzone

Op. No. 166
5/24/65, Kiser

Op. No. 5
6/19/52, Barker