

ELECTIONS:
REGISTRATION:

1. The requirement of one year's residence in the state as a condition to voting established by Article VIII, Section 2 of the Missouri Constitution and Section 111.021 RSMo 1969 is unconstitutional and void. 2. If the durational requirement of sixty days residence in a county, city or town as a condition to voting is held valid by the court in the case now pending in the United States District Court for the Western District of Missouri, such duration of residence will be required as a condition for voting at the November election but such duration of residence is not required in order to vote at the preceding primary election. 3. Any otherwise qualified person who is a resident of the City of St. Louis at the time of registration, regardless of the duration of his residence, may register to vote at the primary at any time prior to 5:00 p.m. on the 28th day preceding the primary election date as provided in Section 118.240, RSMo Supp. 1971. 4. The St. Louis City Election Board should register all residents of such city who apply before 5:00 p.m. on the 28th day preceding the August 1972 primary date if they have all other constitutional qualifications. Such persons are entitled to vote in the 1972 primary.

OPINION NO. 123

May 10, 1972

Mr. John T. Wiley, Chairman
Board of Election Commissioners
City of St. Louis
208 South 12th Boulevard
St. Louis, Missouri 63102



Dear Mr. Wiley:

This letter is a partial response to your request for an opinion on the effect of recent decisions of the Supreme Court of the United States relating to voter residency requirements, on the provisions of Missouri law, and particularly Article VIII, Section 2 of the Missouri Constitution, and Section 111.021, RSMo 1969.

The effect of such Missouri state constitutional and statutory provisions is to establish a residency requirement of one year in the state, and sixty days in the county, city or town, prior to an election, in order to permit a person to vote at that election. We note that such provisions are also found in Section 118.030, RSMo, applicable to St. Louis City.

Mr. John T. Wiley

The case of Dunn v. Blumstein, 92 S.Ct. 995, decided March 21, 1972, by the Supreme Court of the United States, held invalid periods of one year's residency in the state, and three months' residency in the county, as established by the Constitution and statutes of Tennessee. The decision sustained a uniform period of thirty days for the closing of registration books, as established by state statute.

Because of the many problems under the Missouri election laws as presented by that opinion, we have commenced an action in the United States District Court for the Western District of Missouri which we hope will result in a definitive answer to the problem. Missouri, in contrast to Tennessee, does not have statewide registration of voters. Where registration exists, the statutes provide periods of twenty-eight days or four weeks for the closing of registration books, before an election. Missouri also has a residency requirement of sixty days in the county, city or town, while Tennessee has a three-month period in the county. Because of the pending litigation, we do not believe that we should issue an opinion covering the matters which will be presented to the court.

We believe that it is clear, however, that under the decision in Dunn v. Blumstein, the period of one-year's residency in the state, as established by Article VIII, Section 2 of the Missouri Constitution and Section 111.021 of the Missouri statutes, is unconstitutional and void.

We are enclosing Opinion No. 1, rendered May 25, 1938, to H. D. Allison, which held that a person who will have lived in this state a period of one year on or before the November election date is entitled to register and vote at the preceding August primary even though he has been a resident of the state for less than one year on such primary election date. Of course, as stated above, the requirement of one year's residence in the state is invalid but we believe the reasoning of the opinion is sound and that the same reasoning applies with regard to the sixty-day county, city or town residential requirement. It follows that the maximum residential period in the county, city or town that could be required before a resident is entitled to register and vote is sixty days before the November general election and, therefore, the election board should register persons who will have the required sixty-day residency in the City of St. Louis on or before the November election date. Since all residents who apply for registration on a date prior to the August 1972 primary date will clearly have a sixty-day residency before the November election date,

Mr. John T. Wiley

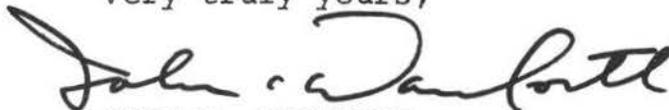
all residents of St. Louis City who have all other constitutional qualifications should be registered who apply before registration is closed at 5:00 p.m. on the 28th day preceding the primary election date as provided in Section 118.240, RSMo Supp. 1971.

CONCLUSION

It is the opinion of this office that:

1. The requirement of one year's residence in the state as a condition to voting established by Article VIII, Section 2 of the Missouri Constitution and Section 111.021 RSMo 1969 is unconstitutional and void.
2. If the durational requirement of sixty days residence in a county, city or town as a condition to voting is held valid by the court in the case now pending in the United States District Court for the Western District of Missouri, such duration of residence will be required as a condition for voting at the November election but such duration of residence is not required in order to vote at the preceding primary election.
3. Any otherwise qualified person who is a resident of the City of St. Louis at the time of registration, regardless of the duration of his residence, may register to vote at the primary at any time prior to 5:00 p.m. on the 28th day preceding the primary election date as provided in Section 118.240, RSMo Supp. 1971.
4. The St. Louis City Election Board should register all residents of such city who apply before 5:00 p.m. on the 28th day preceding the August 1972 primary date if they have all other constitutional qualifications. Such persons are entitled to vote in the 1972 primary.

Very truly yours,



JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 1
5-25-38, Allison