



RQ-0156-JC

The State of Texas
House of Representatives
Austin, Texas

December 1, 1999

John Smithee

State Representative
District 86
Armstrong
Deaf Smith
Oldham
Randall

Committees:
Insurance
Chairman
Civil Practices

The Honorable John Cornyn
Attorney General
State of Texas
P.O. Box 12548
Austin, Texas 78711-2548

Office of the Attorney General
Executive Administration (001)
P.O. Box 12548
Austin, TX 78711

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Dear General Cornyn:

Please review the following request: **Opinion Committee**

REQUEST

FILE # ML-41140-99
I.D. # 41140

This letter seeks an interpretative opinion, more specifically described below, regarding the application of Article V, Section 18(a) of the Texas Constitution as amended November 2, 1999.

LEGISLATIVE BACKGROUND

Article V, Section 18(a), has historically set the required number of justice of the peace and constable precincts for Texas counties. HJR 71, filed during the 76th Legislative Session, sought to amend Section 18 (a) so as to increase population brackets. During House floor debate, I successfully proposed an amendment adding Randall County to Chambers County as counties specifically permitted to self-divide into "not less than two and not more than six precincts," notwithstanding the population requirements of the subsection. House J. 1548. The House also adopted the following amendment to Section 18(a):

"Notwithstanding the population requirements of this subsection, any county that is divided into four or more precincts on November 2, 1999, may continue to be divided into not less than four precincts." House J. 1548.

The Senate substantially adopted the House version, but changed then term, "may" to "shall," in the above reference amendment. Senate J. 1881.

The House then concurred in the Senate amendments. House J. 2705. On November 2, 1999, Texas voters approved the measure as Proposition 16 on the constitutional amendment ballot.

page 2
Rep. John Smithee

HISTORICAL BACKGROUND

Randall County has historically been divided into four justice of the peace and constable precincts. However, until only recently, only two of those precincts elected justices of the peace. Those two justices served the entire county. Recently, a justice in the third precinct was elected, and has taken office. The fourth existing precinct is still vacant. In summary, as of November 2, 1999, Randall County had four justice of the peace precincts, but only three Justices in office. The Commissioners believe that, at the present time, Randall County's needs can be adequately served by utilizing less than four justices of the peace

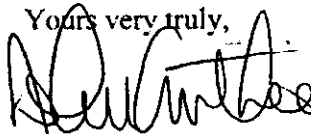
QUESTIONS PRESENTED

I seek an interpretative opinion addressing the following questions:

1. Under Section 18(a), as amended, can the commissioners' court of Randall County divide the county into less than four justice of the peace and constable precincts?
2. If Randall County is divided into less than four justice of the peace and constable precincts, can it still maintain four precincts for purpose of electing county commissioners?

Thank you for your assistance. Please call if you have any questions.

Yours very truly,



John Smithee

JS/eh

cc: The Honorable James E. "Pete" Laney
The Honorable Tom Ramsay
The Honorable Mark Homer