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June 12, 1954  
Opinion No. 54-82

TO: The Honorable Ruskin Lines  
Graham County Attorney  
Courthouse  
Safford, Arizona

RE: Section 12-711, A.C.A. 1939,  
as amended.

QUESTION: Which election should be used  
in computing the number of  
registered voters referred to  
in Section 12-711 (3)(d),  
A.C.A. 1939, as amended?

Section 12-711, A.C.A. 1939, as amended, the interpretation of which is necessary to the instant question, reads as follows:

- "12-711. Salaries of precinct officers.--
- (a) At the regular June meeting of the various boards of supervisors preceding a general election, said boards shall fix the salaries of all precinct officers, excepting justices of the peace and constables whose salaries are hereinafter specifically fixed, for the two-year period commencing on the first day of the following January.
- (b) The monthly salaries of justices of the peace and constables in precincts having more than one thousand (1,000) registered voters shall be:
1. In precincts having more than one thousand (1,000) and not to exceed three thousand (3,000) registered voters: Justices of the peace, two hundred seventy-five Dollars (\$275).
  2. In precincts having more than three thousand (3,000) and not to exceed ten thousand (10,000) registered voters: Justices

of the peace, three hundred fifty dollars (\$350).

3. In precincts having more than ten thousand (10,000) registered voters: Justices of the peace, five hundred dollars (\$500); constable, not to exceed three hundred seventy-five dollars (\$375).

(c) The salary of a justice of the peace or constable appointed to fill a vacancy caused otherwise than by expiration of term, shall be the same as that of his predecessor.

(d) As used in this section, 'registered voter' means a qualified elector of a precinct registered on the date of an election of precinct officers. (Emphasis supplied)

The obvious purpose of a statute which provides for a salary based on population is to make a public officer's salary commensurate with his duties in so far as population affects the magnitude of his duties.

Section 17-504, A.C.A., 1939, as amended, provides that the Justices of the Peace and Constables shall be elected at the general election for State and County officers for terms of four (4) years each.

Section 20-101, A.C.A. 1939, as amended, provides that a Justice of the Peace shall take office on the first day of January following his election.

It is the opinion of this office, keeping in mind that the Legislature intended by the passage of Section 12-711, supra, to pay the Justices of the Peace in proportion to the amount of work they must do; that the election referred to in Section 12-711 (3)(d), supra, is the general election immediately preceding the term of office of the Justice of the Peace whose salary is in question. This means, in effect, that the number of registered voters in the Justice precincts in Arizona will be determined at the general election in November of this year for the term beginning the first day of January, 1955.

ROSS F. JONES  
The Attorney General

R. DEAN BURCH  
Special Assistant to  
The Attorney General

RDB:bt