

The provision in the ordinance limiting the number of Sundays on which games of chance could be conducted is undoubtedly for the purpose of meeting local differences and problems with respect to Sunday activities. Such is clearly permissible. In *Two Guys from Harrison, Inc. v. Furman*, *supra* the argument was made that the referendum with respect to Chapter 119 of the Laws of 1959 was invalid because the problem of Sunday activity was not local, but was rather of uniform concern throughout the State. Chief Justice Weintraub in refuting this argument said with respect to regulating activity on Sunday at p. 231 of 32 N.J. that:

"\* \* \* local differences may well exist in terms of the quantum and nature of the activity and its impact upon the opportunity for relief from the regular routine. It is generally held that municipalities may be empowered to deal directly with the subject."

See also: *Masters-Jersey Inc. v. Borough of Paramus*, 32 N.J. 296 (1960).

Nor is any such provision in an ordinance in conflict with R.S. 5:8-33 and 5:8-60. These sections provide that legalized games of chance may not be operated oftener than on six days in any one calendar month. These sections do not interfere in any way with the power of the municipality to prohibit or permit games on Sunday.

We, therefore, conclude that a provision in an ordinance limiting the number of Sundays on which games of chance can be held would not be in conflict with those provisions of the Bingo Licensing Law, R.S. 5:8-24 *et seq.* and the Raffles Licensing Law *et seq.* which relate to the frequency of such games and their operation on Sunday.

Very truly yours,

DAVID D. FURMAN  
*Attorney General*

By: BURRELL IVES HUMPHREYS  
*Deputy Attorney General*

JANUARY 23, 1961

MR. ROBERT M. FALCEY, *Chief Clerk*  
Office of Secretary of State  
State House  
Trenton, New Jersey

FORMAL OPINION 1961—No. 1

DEAR MR. FALCEY:

We have been asked who is responsible for the printing of ballots. We shall treat primary elections first and then general elections. In each case we shall treat sample ballots first and then official ballots.

Generally, municipal clerks must cause to be printed sample ballots for the primary election. R.S. 19:23-30. The cost must be paid by the respective municipalities. *Id.* The one exception is Bergen County where the county clerk must have the sample ballots for the primary election printed. L. 1945, c. 290, § 1, N.J.S.A. 19:23-22.2. In Bergen County the cost is to be borne originally by the county but thereafter reimbursed by the municipalities. L. 1945, c. 290, § 2, N.J.S.A. 19:23-22.3.

Generally, municipal clerks must cause to be printed official ballots for the primary election. R.S. 19:23-27. The cost must be paid by the respective municipalities. *Id.* Again, Bergen County is excepted. There, the county clerk must have the official ballots for the primary election printed. L. 1945, c. 290, § 1, N.J.S.A. 19:23-22.2. In Bergen County the cost is to be borne originally by the county but thereafter reimbursed by the municipalities. L. 1945, c. 290, § 2, N.J.S.A. 19:23-22.3.

The county clerk must cause to be printed both sample ballots and official ballots for the general election. This is provided in the case of the sample ballots by R.S. 19:14-21, and in the case of the official ballots by R.S. 19:14-18. The necessary implication of the provision that the county clerk shall cause to be printed ballots for the general election is that the county shall bear the costs. Cf. R.S. 19:45-4.

The adoption of voting machines in a county is not intended by the Legislature to alter the general provisions concerning responsibility for the cost of printing ballots discussed above. R.S. 19:49-4(b)(2) assumes generally "that the municipal clerks shall have primary sample ballots printed." This leaves unchanged R.S. 19:23-30, the general provision for sample ballots for primary election. R.S. 19:49-4(b)(2) provides only that the county clerk shall draw the specifications for the printing of the official primary ballots, and R.S. 19:49-2 provides expressly that "the providing of the official ballots \* \* \* shall be as now required by law." These provisions leave unchanged the effect of R.S. 19:23-27, the general provision for official ballots for the primary election. R.S. 19:49-4(b)(1) provides that "the county clerk shall have \* \* \* sample ballots for all general \* \* \* elections printed \* \* \*." This leaves unchanged the effect of R.S. 19:14-21. R.S. 19:49-2, quoted above, leaves unchanged the effect of R.S. 19:14-18, governing the providing of official ballots for the general election.

In summary, it is our opinion that the cost of printing ballots must be paid as follows:

in the case of sample ballots for the primary election, generally by the municipalities, except that in Bergen County, originally by the county but the county is to be reimbursed by the municipalities;

in the case of official ballots for the primary election, by the municipalities, except that in Bergen County, originally by the county but the county is to be reimbursed by the municipalities;

in the case of sample ballots for the general election, by the county; and  
in the case of official ballots for the general election, by the county.

One qualification of the above must be made. L. 1945, c. 290 currently controls in Bergen County. This law is in terms applicable to second class counties having a population of more than 400,000. Prior to the promulgation of the 1960 census, only Bergen County is in this category. With the changes in population this law will no longer apply to Bergen County, but will apply to Union, Middlesex and Passaic counties, unless the Legislature should amend the law.

Very truly yours,

DAVID D. FURMAN  
*Attorney General*

By: WILLIAM L. BOYAN  
*Deputy Attorney General*