



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. S-1432

ELECTIONS:
Authorization of County
Board to Consolidate Precincts

Honorable Timothy L. Fornes
State's Attorney
Hardin County
Court House Annex
Elizabethtown, Illinois 62931

Dear Mr. Fornes:

This responds to your letter wherein you inquired whether the county board of Hardin County, a county not under township organization, having a population less than 3,000,000 inhabitants, may at its regular June meeting this year, consolidate two or more precincts into one even though consolidation may eliminate some precincts. In my opinion the board has authority to so consolidate.

The controlling statutory provisions are found at section 11-1 of the Election Code (Ill. Rev. Stat. 1977,

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ch. 46, par. 11-1) and section 11-2 of the Election Code. (Ill. Rev. Stat. 1977, ch. 46, par. 11-2.) Section 11-1 of the Election Code (Ill. Rev. Stat. 1977, ch. 46, par. 11-1) provides in part:

"In counties not under township organization, the election precincts shall remain as now established until changed by the Board of County Commissioners, but said County Board may, from time to time, change the boundaries of election precincts and establish new ones. * * *

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The foregoing statutory provision does not in express language state that a county board may consolidate two or more election districts or election precincts into one, and in doing so, eliminate election precincts. The county board, however, is given power to change the boundaries of election precincts and establish new ones. In doing so and in complying with the required population ranges per precinct, it seems inevitable that one or more precincts might be eliminated. A statutory grant of power or right carries with it, everything necessary to carry out the power or right and make it effectual and complete. In United States v. Jones (7th Cir. 1953), 204 F. 2d 745, 754, the court said:

"Necessary implication refers to a logical necessity; it means that no other interpretation is permitted by the words of the Acts construed; and so has been defined as an implication which results from so strong a probability of intention that an intention contrary to that imputed can-

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not be supported. 42 C.J.S., page 405 and cases there cited. The term is used where the intention with regard to the subject matter may not be manifested by explicit and direct words, but is gathered by implication or necessary deduction from the circumstances and the general language. Burford v. Huesby, 35 Cal.App.2d 643, 96 P.2d 380; Goldfein v. Continental Ins. Co., 125 Neb. 112, 249 N.W. 78; 42 C.J.S., page 406. Consequently that which is implied in a statute is as much a part of it as that which is expressed, for a statutory grant of a power carries with it, by implication, everything necessary to carry out the power and make it effectual and complete. * * *

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In carrying out the consolidating the board should have in mind the necessity of complying with the population requirements of section 11-2 of the Election Code (Ill. Rev. Stat. 1977, ch. 46, par. 11-2) which provides in pertinent part:

"The County Board in each county, except in counties having a population of 3,000,000 inhabitants or over, shall, at its regular meeting in June, divide its election precincts which contain more than 800 voters, into election districts so that each district shall contain, as near as may be practicable, 500 voters, and not more in any case than 800. Whenever the County Board ascertains that any election precinct contains more than 600 registered voters, it may divide such precinct, at its regular meeting in June, into election precincts so that each precinct shall contain, as nearly as may be practicable, 500 voters. * * * And so often thereafter as it shall appear by the number of votes cast at the general election held in November of any year, that any election district or undivided election precinct contains more than 800 voters, the County Board of the county in which the district or precinct may be, shall at its regular meeting in June, or an adjourned meeting in July next, after such November election, redivide or readjust such election district or

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election precinct, so that no district or election precinct shall contain more than the number of votes above specified. * * *

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In conclusion, I am of the opinion that the Hardin County Board is authorized to consolidate two or more election precincts into one even though some election precincts may be eliminated, provided the consolidation complies with the population requirements of section 11-2 of the Election Code. Ill. Rev. Stat. 1977, ch. 46, par. 11-2.

Very truly yours,

A T T O R N E Y G E N E R A L