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April 23, 1976

FILE NO. S-1078

ELECTIONS:
Status and Authority
of Precinct Registrars

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Gentlemen:

I have your letters wherein you raise several questions concerning the constitutionality and proper construction of portions of sections 4-6.2 and 6-50.2 of The Election Code. (Ill. Rev. Stat. 1975, ch. 46, pars. 4-6.2 and 6-50.2, as amended by P.A. 79-942.) It should be noted that section 4-6.2 was also amended by Public Act 79-1071. The provisions of that amendment are not relevant to the issues

under consideration here, however.

Section 4-6.2, as amended by Public Act 79-942, provides in pertinent part:

> "The County Clerk shall appoint all precinct committeemen in the county precinct registrars. Precinct registrars shall be deputy registrars and shall have all of the powers and duties provided by this Act for such office, but may accept registrations at any place within the precinct in which they serve. * * * "

Section 6-50.2, as amended, provides in pertinent part:

> "The board of election commissioners shall appoint all precinct committeemen residing within its jurisdiction precinct registrars. Precinct registrars shall be deputy registrars and shall have all of the powers and duties provided by this Act for such office, but may accept registrations at any place within the precinct in which they serve. * * * "

The first question raised is whether Public Act 79-942 is unconstitutional in that it does not provide for the appointment of precinct registrars in counties with a population of 500,000 or more.

The provisions of the Illinois Constitution of 1970 applicable to your inquiry are section 4 of article III:

> "The General Assembly by law shall define permanent residence for voting purposes, insure secrecy of voting and the integrity of the election

> process, and facilitate registration and voting by all qualified persons. Laws governing voter registration and conduct of elections shall be general and uniform."

and section 13 of article IV:

> "The General Assembly shall pass no special or local law when a general law is or can be made applicable. Whether a general law is or can be made applicable shall be a matter for judicial determination."

In the case of Bridgewater v. Hotz, 51 Ill. 2d 103, the Supreme Court was called upon to define the term "general and uniform" used in section 4 of article III. It was argued at that time that the "general and uniform" standard was meant to be more stringent than the proscription of "local or special laws" contained in section 13 of article IV. The court rejected this argument and applied a definition of "general and uniform" that had evolved in a series of cases dealing with the prohibition against "local or special laws" found in section 22 of article IV of the Illinois Constitution of 1870.

The court pointed out that an election law need not apply identically in every part of the State in order to be "general and uniform". Rather, it is sufficient if it operates alike on all persons and in all places in the same condition.

As long as a reasonable basis can be found for differentiating between those to whom the law applies and those to whom it does not, the legislative classification is a proper one. The court goes on to state at pages 111 to 112 that:

> "* * * [I]t is well settled that an act is not local or special merely because of a legislative classification based upon population [cites omitted] or territorial differences. [cites omitted] Such classifications will be sustained where founded upon a rational difference of situation or condition existing in the objects upon which it rests, and where there is a reasonable basis for the classification in view of the objects and purposes to be accomplished. * * * *

Thus, if it can be said that a rational basis exists for the classification implicit in Public Act 79-942, the Act does not violate either section 4 of article III or section 13 of article IV of the Illinois Constitution of 1970.

In providing for the registration of voters in Illinois, the General Assembly has created three basic systems: One for registration in counties with a population of less than 500,000 (Ill. Rev. Stat. 1975, ch. 46, pars. 4-1 et seq.); one for registration in counties with a population of 500,000 or more (Ill. Rev. Stat. 1975, ch. 46, pars. 5-1 et seq.); and one for registration in municipalities having boards of election commissioners. (Ill. Rev. Stat. 1975, ch. 46, pars. 6-1 et seq.)

The goal of all three systems is the registration of all eligible voters. Public Act 79-942 reflects a decision by the legislators that adequate provision had not been made for the attainment of this goal under two of the three systems. Based on the information provided me, I can only conclude that this decision was a reasonable response to differences of condition perceived by the legislature.

It is, therefore, my opinion that Public Act 79-942 does not violate either section 4 of article III or section 13 of article IV of the Illinois Constitution of 1970.

The next question raised is whether sections 4-6.2 and 6-50.2, as amended, do in fact authorize precinct registrars to register voters at any location within their precincts. In response to this question, it is my opinion that under the provisions of sections 4-6.2 and 6-50.2, as amended, a precinct registrar may indeed register voters at any place in the precinct in which he serves.

The construction of a statute is necessary only where the statutory language is uncertain or ambiguous. (Bergeson v. Mullinix, 399 Ill. 470.) Where the statutory language is clear and unambiguous there is no occasion for

applying the rules of statutory construction (Kording v. Illinois Power Co., 32 Ill. 2d 421) and the statute must be held to mean what it plainly expresses. Levinson v. Home Bank & Trust Co., 337 Ill. 241.

The intent of the legislature as expressed in the language of sections 4-6.2 and 6-50.2 seems unmistakably clear. Precinct registrars "shall be deputy registrars and shall have all the powers and duties provided by this Act for such office", but in addition they are authorized to "accept registrations at any place within the precinct in which they serve". Thus, your second question must be answered in the affirmative.

The third question raised is whether the Illinois Constitution of 1970 is violated because precinct registrars can register voters anywhere while other deputy registrars are limited to specific places at which they can accept registrations. In my opinion no violation is involved.

Section 4 of article III of the Illinois Constitution of 1970 provides:

> "The General Assembly by law shall define permanent residence for voting purposes, insure secrecy of voting and the integrity of the election process, and facilitate registration and voting by all qualified persons. Laws governing voter registration and conduct of elections shall be general and uniform."

The language of this provision clearly gives to the legislature the power to provide by law for the registration of voters, subject only to the requirement that such laws be "general and uniform". As is evident from my discussion of the first question, the "general and uniform" standard was meant to insure that all individuals in similar circumstances are affected equally by the State's election laws. Thus, for example, an election law cannot provide different rules for different counties absent a rational basis for the distinction.

Section 4 of article III does not, however, prohibit the legislature from providing several means of registering voters within a county. As long as all individuals in all counties similarly situated have the same options, there is, in my opinion, no constitutional violation.

The next question raised is whether the enactment of sections 4-6.2 and 6-50.2, as amended, constituted a repeal by implication of section 14-1 of The Election Code. (Ill. Rev. 1975, ch. 46, par. 14-1.) Repeal by implication takes place when the provisions of two acts are irreconcilably inconsistent. (People v. Maslowsky, 34 Ill. 2d 456.) In such a situation the later in time repeals the earlier in time to the extent of

the inconsistency. Rosehill Cemetery Co. v. Luedey, 406 Ill. 458.

Section 14-1 sets forth the qualifications for election judges in municipalities that have chosen boards of election commissioners pursuant to article 6 of The Election Code. (Ill. Rev. Stat. 1975, ch. 46, pars. 6-1 et seq.) Section 14-1 states in pertinent part:

> "To qualify as judges the electors must:
> * * *
> (6) not be candidates for any office at the election and not be elected committeemen;" (emphasis added.)

You state that the qualifications listed in section 14-1 apply to deputy registrars as well, and point out the apparent conflict between the portion of section 14-1 quoted above and the amendment to sections 4-6.2 and 6-50.2.

Section 6-32 of The Election Code (Ill. Rev. Stat. 1975, ch. 46, par. 6-32) does indeed indicate that certain deputy registrars shall "have the qualifications prescribed for judges of election by Section 14-1". The applicability of the standards of section 14-1 is limited by section 32, however, to "the deputy registrars and judges of registration provided for by section 6-30 of this Article".

Section 6-30 of The Election Code (Ill. Rev. Stat. 1975, ch. 46, par. 6-30) provides:

> "§ 6-30. If any city, village or incorporated town adopts and becomes entitled to the benefits of this Article 6 and Articles 14 and 18 of this Act, after the date for the first registration hereunder, registration therein shall be governed by the law applicable thereto at the time of the adoption of said Articles until a complete first registration can be had. Such first registration shall be in the manner provided in this Article and shall precede the primary held for the nomination of candidates for the next succeeding congressional election, and the periods provided for each step in such registration shall be the same as are provided by this Article 6 with respect to cities, villages and incorporated towns subject to this Article at the time when it takes effect. A period for registration at the office of the board of election commissioners prior to such election shall be allowed equal to that provided by this Article, for the period intervening between the first Tuesday in August, 1936 and the first Tuesday after the first Monday in November, 1936."

A careful reading of this provision makes it clear that it does not apply to deputy registrars appointed by county clerks pursuant to section 4-6.2, as amended. It is likewise evident that section 6-30 does not apply to deputy registrars appointed in the normal course of events by boards of election commissioners pursuant to section 6-30.2, as amended. Rather, section 6-30 applies only to the "first registration" conducted by boards of election commissioners in those municipalities which choose to adopt such a board after the

date for the first registration provided in section 6-30 itself.

It is, therefore, my opinion that there is no conflict between the provisions of sections 4-6.2 and 6-50.2, as amended, on the one hand, and section 14-1 on the other, and as a result the former provisions cannot be said to repeal the latter by implication.

Finally, it is noted that should a precinct registrar be discharged, the precinct registrar from the other major political party would be placed in a position of accepting voter registrations from both parties. I agree that the remaining precinct registrar could indeed accept registrations from both parties, but I find nothing in the Illinois Constitution of 1970 prohibiting this.

Very truly yours,

ATTORNEY GENERAL