

Opinion No. 52-5489

February 1, 1952

BY: JOE L. MARTINEZ, Attorney General

TO: Mr. T. K. Campbell District Attorney Third Judicial District Las Cruces, New Mexico

{*205} Recently you inquired of this office whether Chapter 192, Laws of 1951, providing for the use of voting machines, by implication or otherwise, is superseded or repealed by § 56-201, New Mexico Statutes Annotated.

The latter statute makes it mandatory for the boards of county commissioners, within the time required by that statute to divide precincts and voting divisions of their respective counties, in which more than 600 votes were cast at one polling place at the last preceding general election, into two or more election districts for voting purposes.

Your inquiry points out that with the use of voting machines precincts can now vote more than 600 voters.

Notwithstanding the fact that the voting machines may be able to accommodate more than 600 voters, it is my opinion that the enactment of Chap. 192, Laws of 1951, did not supersede or repeal § 56-201, N.M.S.A., requiring county commissioners to divide precincts and voting districts so that no polling place will be required to accommodate more than 600 voters.

A well established principle of law recognizes repeal of statutes by implication only when the latter act is irreconcilable with the earlier act. No such repugnancy exists between Chap. 192, Laws of 1951, and § 56-201, N.M.S.A.

Further authority for the nonrepeal of § 56-201, N.M.S.A., is found in the language contained in Section 23 of Chapter 192, Laws of 1951, which reads as follows:

"The provisions of all other laws relating to the conduct of elections or primary elections, shall so far as practicable, apply to the conduct of elections and primary elections where voting machines are used, unless herein otherwise provided: * * *"

I trust that this will fully answer your inquiry.