

**OPINION
68-159**

August 2, 1968 (OPINION)

Mr. Gordon O. Hoberg

State's Attorney

Logan County

RE: Elections - Polling Places - Located Within County

This is in reply to your letter of July 29, 1968, relative to the establishment of polling places. You note an opinion issued by this office to you on July 14, 1964, and further note that a change has been made in the law since the issuance of that opinion. Your question is as follows:

Could the County Commissioners of Logan County establish a voting place for a Logan County precinct outside the boundaries of Logan County? In this particular case, it would mean the voters of Logan County having their place to vote changed to McIntosh County."

The opinion to which you refer noted that section 16-09-06 of the North Dakota Century Code permitted a township to have a voting place within a town, city, or village where the same was within the boundaries of the township or within five miles of the same. However, in the opinion this office concluded that there was no provision granting the Board of County Commissioners the authority to establish a polling place without the county, and such being the case, the Board would have no jurisdiction or power to establish such polling places beyond the territorial confines of Logan County.

As you noted in your letter, the 1967 Legislature amended the section. Section 16-09-06 of the North Dakota Century Code, as amended now reads as follows:

TOWNSHIP MAY HAVE VOTING PLACE OUTSIDE ITS BOUNDARIES. The board of county commissioners when necessity and convenience demands it, may designate a precinct voting place outside of the boundaries of a precinct."

While this section is not as restrictive as it was when the 1964 opinion was written, nevertheless the amended provision does not authorize the county commissioners to specify voting places beyond the boundaries of the county. This section was amended as a part of a general revision of the election laws and the bill was a result of an interim study of the Legislative Research Committee. The notes of that committee do not indicate an intent to permit the location of a voting place beyond the boundaries of the county. Without express legislation to that effect, we must adhere to the opinion issued to you on July 14, 1964. It is therefore our opinion that the board of county commissioners does not have jurisdiction or power to establish a voting place beyond the territorial confines of the county in the absence of a statute specifically conferring upon them the authority

to locate a voting place outside of the county.

HELGI JOHANNESON

Attorney General