

It is our opinion that if the Corporation Tax Bureau finds that the operations of American Commercial Corporation are not in substantial competition with the business of national banks, the corporation is not taxable under the Financial Business Tax Law even though its purchases of accounts receivable are within the statutory definition of "discounting and negotiating . . . evidences of debt."

Very truly yours,

GROVER C. RICHMAN, JR.  
*Attorney General*

By: ROBERT E. FREDERICK  
*Deputy Attorney General*

FEBRUARY 8, 1956

MR. HARRY E. BLOCH  
*Assistant Clerk*  
*Hudson County Board of Elections*  
591 Summit Avenue  
Jersey City 6, New Jersey

MEMORANDUM OPINION—P-9

DEAR MR. BLOCH:

You have requested our opinion as to the right of the Hudson County Board of Elections to further revise and re-adjust election districts in a municipality, pursuant to the Election Law (R.S. 19:4-7), after the municipality has re-adjusted its ward and boundary lines and divided such wards into election districts, pursuant to the provisions of the Revised Statutes, Title 40, Chap. 44, Sections 40:44-1 through 40:44-8.

Your inquiry presents this factual situation:

"The facts in the matter are as follows: The Township of North Bergen, Hudson County, has re-warded its Township pursuant to a resolution, copy of which is enclosed herewith. As a result of said Ordinance, Ward Commissioners were appointed and proceeded to divide the Township into wards pursuant to Revised Statutes 40:44-8 and thereafter, said Ward Commissioners proceeded to establish District Lines in said wards pursuant to said Revised Statutes 40:44-8."

Revised Statutes, Title 40, Chap. 44, establishes a procedure for the division of municipalities into wards and districts. The governing body of any municipality may by ordinance provide for the division of such municipality into wards, or where such municipality has heretofore been so divided, it may by ordinance provide for a change of lines and boundaries of wards or for an increase or decrease in the number thereof (Sec. 1). Upon the ordinance becoming effective the mayor or other chief executive officer of the municipality shall appoint four commissioners to fix and define the lines and boundaries of such wards. The commissioners shall, within ten days after their appointment, take and subscribe an oath to faithfully and impartially perform the duties imposed upon them (Sec. 2). The commissioners shall, within

sixty days after their appointment, make their report to the governing body of the municipality, and file it with the municipal clerk, in which report the boundaries and dividing lines of such wards shall be properly described, with a statement of the population of each ward as nearly as can be ascertained, and a map showing the lines and the extent and boundaries of such wards shall be made and filed by the commissioners with their report; all of which shall be attested and certified by the commissioners under their hands, and shall remain a record in the office of the municipal clerk.

All such wards shall be formed of contiguous territory, and in fixing the lines and boundaries thereof, the commissioners shall have regard to equality of population (Sec. 3). Ten days after the making and filing of the report the lines and boundaries of such wards shall be as set forth in the report of the commissioners, and all other and former ward lines and boundaries shall thereupon be abolished. Sections 5 and 6 provide for the re-adjustment of wards and the acts of the majority of the commissioners shall be deemed to be the acts of all and a report signed by a majority of the commissioners shall be considered the report of the commissioners. The Act, by Section 7, provides for the continuance of current officers and the terms of subsequent officers.

Section 8 of the Act provides:

"40:44-8. Wards divided into election districts

When any municipality is divided into wards, or a change is made in the lines or boundaries of wards, or the number of wards increased or decreased as hereinbefore provided, the commissioners shall divide the wards into election districts or precincts."

\* \* \* \* \*

The Election Law (R. S. 19:4-7) authorizes the re-adjustment of boundaries of election districts subject to the conditions set forth in the statute. It reads:

"19:4-7. Readjustment of boundaries of election districts without regard to number of voters.

"Where it appears that serious inconvenience has been caused the voters by the size or shape of an election district in a municipality, or that certain districts contain an unreasonably large or small number of voters in comparison with other districts in such municipality or that a change is necessary because of a change of ward lines, the county board in counties of the first class and the elective governing body of the municipality in counties other than counties of the first class may revise or readjust the election districts in the municipality, without regard to whether a readjustment is authorized by section 19:4-6 of this title."

Section 19:4-6 is not relevant in the instant case.

Your inquiry involves a construction of the cited sections of Title 40, originally the Home Rule Act of 1917, and the section of the Election Law quoted by you.

The specific question for consideration is, does the amended election law (19:4-7) expressly or impliedly repeal the statutory grant of power to a municipality, in a county of the first class, acting by its commissioners, to divide its wards into election districts or precincts.

It must be conceded that there is no express repeal in this instance.

A uniform line of decision in this State has established the principle that repeal by implication is not favored. In the case of *Scancarella v. Dept. of Civil Service*, 24 N. J. Super. 65, (A. D. 1952), the court observes on Page 70:

"Implied repealers are not favored in the law and are not declared to exist unless the later statute is 'plainly repugnant to the former and is designed to be a complete substitute for the former.' *Goff v. Hunt*, 6 N. J. 600, 606 (1951.)"

Furthermore, the State Constitution by Article IV, Section VII, Paragraph 11, provides:

"11. The provisions of this Constitution and of any law concerning municipal corporations formed for local government, or concerning counties, shall be liberally construed in their favor. The powers of counties and such municipal corporations shall include not only those granted in express terms but also those of necessary or fair implication, or incident to the powers expressly conferred, or essential thereto, and not inconsistent with or prohibited by this Constitution or by law."

We are of the opinion, therefore, that the municipality retains its right to erect the election districts in the new wards, but that your Board has the authority to revise and re-adjust election districts for the reasons contained in R. S. 19:4-7, provided your Board makes a finding, based upon substantial facts, that a serious inconvenience has been caused.

Very truly yours,

GROVER C. RICHMAN, JR.  
*Attorney General*

By: JOSEPH LANIGAN  
*Deputy Attorney General*

JL:MG

MARCH 15, 1956

MR. W. LEWIS BAMBRICK, *Manager*  
*Unsatisfied Claim and Judgement Fund Board*  
222 West State Street  
Trenton, New Jersey

MEMORANDUM OPINION—P-10

DEAR MR. BAMBRICK:

You have requested our opinion concerning an application for payment from the Unsatisfied Claim and Judgement Fund which has been made to the Essex County District Court pursuant to R.S. 39:6-61 et seq.

You have informed us that the applicant suffered personal injuries and property damage in a motor vehicle accident, filed proper notice of the accident and an intention to file a claim against an uninsured driver of a motor vehicle, required by R.S.