

county so that each precinct shall contain as nearly as possible three hundred fifty electors. This observation is, however, subject to the qualification that if there should be two adjoining precincts for instance in the county, one of which is a village precinct containing less than one hundred voters and the adjoining precinct containing less than two hundred fifty voters within the same civil division as the village precinct, it is clearly the duty of the board of elections to proceed toward combining the two. I assume that proceedings have already been taken toward consummating this purpose, since you state that a hearing has been held by the board of elections upon the question of combining the precincts in question. Section 4785-24, supra, provides for the posting of a notice of such proposed action and further provides that if twelve electors remonstrate against such action as therein set forth, a public hearing shall be called. I assume that these detailed steps have been taken and that remonstrances have been filed which resulted in the hearing having been held.

I am of the view that although the provision of Section 4785-22, supra, that no precinct shall contain less than two hundred fifty electors, may be said to place a mandatory duty on the board of elections to take such steps as may be necessary to comply therewith, after the steps outlined in Section 4785-24, supra, have been taken, the question of whether or not the combination of precincts shall be effected must depend not upon the language of Section 4785-22, but rather upon the language of Section 4785-24. It is expressly provided in this last mentioned section that upon a public hearing being held pursuant to remonstrances having been made as therein set forth, the matter shall be determined at such public hearing "and such order shall be made for or against such * * * combination as is deemed proper." To say that at a hearing upon a combination such as is here under consideration the board must under all circumstances be compelled to effectuate the change would result in the publishing of notice, filing of remonstrances and holding of the hearing being absolutely meaningless and futile. Section 4785-24 contains no exception as to a combination of precincts containing less than two hundred fifty electors. I think it is clear, therefore, that under the provisions of Section 4785-24, General Code, when notice of a combination of precincts containing less than two hundred fifty voters has been given, remonstrances made against such combination and a public hearing held as therein provided, the board of elections has discretionary power to determine whether or not such combination shall be made.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

2220.

APPROVAL, CONTRACT FOR ROAD IMPROVEMENT IN BELMONT COUNTY, OHIO.

COLUMBUS, OHIO, August 9, 1930.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*