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SPRINGFIELD

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FILE NO. S-479

**LIQUOR:**  
**Local Option**

**Honorable B. H. Huschen**  
**State's Attorney**  
**Woodford County**  
**Courthouse**  
**Eureka, Illinois 61530**

**Dear Mr. Huschen:**

**I have your recent letter wherein you state:**

**"We would appreciate an opinion from you on the following:**

**The City of Eureka, Woodford County, Illinois, has, under a local referendum, voted itself dry, so that there are no taverns in the city.**

**However, there are two taverns just outside the city limits which have been licensed to do business by the County of Woodford.**

The City of Eureka wishes to expand and take in territory which will include the ground on which these two taverns are situated. In the event the city annexes this territory, would the taverns then still be able to operate as such taverns and be in the city that has previously voted itself dry?"

Section 8 of Article IX of "An Act relating to alcoholic liquors," (Ill. Rev. Stats., 1971, Ch. 43, par. 173) provides:

"The status of all the territory within any political subdivision or precinct, relative to the sale at retail of alcoholic liquor, or the sale at retail of alcoholic liquor other than beer containing not more than 4% of alcohol by weight, or the sale at retail of alcoholic liquor containing more than 4% of alcohol by weight except in the original package and not for consumption on the premises, as the case may be, shall remain the same, notwithstanding any change which may be made in the limits of any ~~such political~~ subdivision or precinct until the voters thereof have changed such status as to annexed or disconnected areas under the provisions of Section 8.1 of this Article, or until the voters have changed such status for areas other than annexed or disconnected areas under the provisions of Section 2 or Section 9 of this Article."

It can be observed from the foregoing statutory provision that the status of all the territory within any political

subdivision or precinct remains the same until the voters thereof have changed such status as to annexed or disconnected areas under the provisions of Section 8.1 of Article IX or until the voters have changed such status for areas other than annexed or disconnected areas under the provisions of Section 2 or Section 9 of Article IX. It should be noted that Section 8 of Article IX of "An Act relating to alcoholic liquors, " (Ill. Rev. Stats., 1971, Ch. 43, par. 173) formerly provided, in part, as follows:

"In all the territory within any political subdivision which has prohibited the sale at retail of alcoholic liquor \* \* \* such prohibition shall continue throughout its entire extent, notwithstanding any change which may be made in the limits of any such political subdivision, until the legal voters thereof have voted otherwise, according to the provisions of this Act, and the following section shall be construed in harmony herewith."

The former statute therefore provided only for the continuation of a prohibition of the sale of liquor until the voters have voted otherwise. The statute now provides for the continuation of the status of the territory within a political subdivision. The legislature is not to be presumed to have done a vain or useless thing in the enacting of a statute, (Pinkstaff v. Penn.

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Railroad Co., 31 Ill. 2d 518, 524). When the legislature enacts a statute, it must be presumed that it knows the existing law and intends to make some change in the former law, (Sylvester v. Buda Co., 281 Ill. App. 139, 144). It seems clear therefore that whereas formerly only the "dry" status was continued under the provisions of Section 8, now however, both the "dry" or "wet" status is continued until the voters have otherwise changed such status pursuant to Section 8.1 or Section 2 or 9 of Article IX.

You have indicated that the City of Eureka is "dry" and wishes to annex certain territory which is "wet". Since either the "dry" or "wet" status is continued under Section 8, I am of the opinion that the annexed territory will remain "wet" until the voters of the annexed area have changed such status under the provisions of 8.1 or until the voters have changed such status for areas under the provisions of Section 2 or Section 9 of Article IX.

Very truly yours,

A T T O R N E Y   G E N E R A L