

3705.

APPROVAL, BONDS OF VILLAGE OF WORTHINGTON, FRANKLIN COUNTY, \$9,000, FOR STREET IMPROVEMENTS.

COLUMBUS, OHIO, November 3, 1922.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

3706.

ABSENT VOTERS LAW—ELECTOR CANNOT VOTE ABSENT VOTER'S BALLOT AND THEN GO TO POLLS ON ELECTION DAY AND WITHDRAW SAME— HOW ABSENT VOTERS' BALLOTS CHALLENGED.

COLUMBUS, OHIO, November 6, 1922.

HON. HARVEY C. SMITH, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Permit me to acknowledge receipt of your letter of even date with which you transmit a communication from S. H. Hamilton, member of the board of deputy state supervisors of elections of Pike County, which is as follows:

“To prevent any confusion as to construing the election laws as to certain matters, wish you would kindly answer the following questions and direct as to laws concerning same:

(1) Can an elector vote an absent voter's ballot and go to the polls on election morning and withdraw same?

(2) Will you please advise us as to the method of challenge of absent voter's ballots and the number of precinct judges required, voting in the affirmative, to accept and the number of judges required to reject a vote of an elector?”

Replying to your request for an answer to the questions propounded by Mr. Hamilton, permit us to advise in answer to question 1—“Can an elector vote an absent voter's ballot and go to the polls on election morning and withdraw same?”—that there is no provision of law which permits such a procedure. The disposition of an absent voter's ballot, which has been received by election officials under and pursuant to the provisions of section 5078-5 and concerning which there is no claim of irregularity or illegality, is fully provided for therein and nothing remains for the election officials to do but to count same after it has been deposited in the ballot box pursuant to the section referred to.

The second question propounded relates to the method of the challenge of absent voter's ballots and the number of precinct judges required voting in the affirmative to accept and the number of judges required to reject a vote of an elector.

It is to be assumed that if there were special means provided by law to cover the challenge of the so-called absent voter's ballots that there would be no difficulty in handling any practical question arising in this or any other election. You are advised that there is no specific provision for the challenge of absent voter's ballots. The requirements to be met by the elector who desires to vote under the absent voter's law are well known, and must be met in every particular before the ballot can be finally received, placed in the ballot box and counted. If any question should arise as to illegality on the face of the proceeding attendant upon the voting of an absent voter's ballot, and it should be determined by the election officials that the ballot offered is not a bona fide absent voter's ballot either by reason of the fact that the elector is not in the first place qualified to cast such a ballot or the legal requirements have not been met in the preparation of the ballot, then there is no question whatsoever that the same safeguards placed around the voting of an ordinary ballot should be employed to prevent any fraudulent voting in the case of the so-called absent voter's ballot. In other words, a ballot offered as an "absent voter's ballot" by one found not to be entitled to vote in the particular precinct by reason of non-residence or otherwise, should be refused.

Election officials should be impressed with the fact that great care should be exercised with such refused ballot to the end that in any subsequent judicial investigation no injustice could possibly result from the refusal of the ballot by the election officials.

The provisions of section 5090 of the General Code should be strictly adhered to in the care of any disputed so-called absent voter's ballots.

The identification envelopes of so-called absent voter's ballots which are found by the election officials to be fraudulent should not under any circumstances be opened.

By adhering to the above course, the integrity of the ballot will be insured, and it will be absolutely possible to insure the ascertainment of the correct result of the election.

Respectfully,

JOHN G. PRICE,
Attorney-General.

3707.

APPROVAL, BONDS OF VANLUE VILLAGE SCHOOL DISTRICT, HANCOCK COUNTY, \$147,350, FOR ERECTION OF SCHOOL BUILDING.

COLUMBUS, OHIO, November 7, 1922.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio