

result in declaring the election invalid, these irregularities should be developed by way of appropriate proceedings in quo warranto, or otherwise. An examination of the General Code reveals no authority for the contest of an election for members of a board of education and consequently any questions concerning the validity of the election must be raised in proper court proceedings. Suffice it to say, I do not regard it as the function of the Attorney General to hold an election invalid by reason of claimed irregularities, at least where the returns are such as to enable the proper canvassing officials to determine that certain candidates for public office at an election have received the necessary votes to elect them to office under the statutes applicable.

I may suggest, however, that one of the main bases for complaint appears to be the fact that no ballots were provided in certain of the precincts. Your attention is directed to Section 4711 of the General Code, which provides that electors, residing in territory attached to a village school district for school purposes, may vote for school officers at *the proper voting place in the village* to which the territory is attached. It further provides for the designation by the board of the proper precinct in which voters from outside of the village shall vote, and, in the absence of such designation, the voter is entitled to vote in the precinct nearest his residence. The school district here in question was a village district, and, accordingly, there was no authority for voting in any precinct other than the Galena village precincts. In fact, it was irregular to permit any one to vote anywhere except in Galena. A few votes were cast in the outside precincts but apparently most of the voters proceeded regularly and voted in the village precincts. It follows that this ground for objection cannot be sustained.

As to the other irregularities, no special consideration need be given in view of what has been said.

Answering the questions suggested by your inquiry specifically, I am of the opinion:

1. Where, in an election of members of a village board of education, the returns certified to the board of education by the precinct officials are such as to enable the board to determine which candidates are elected, it is the duty of the board of education to canvass the vote and declare such persons elected, and there is no authority in the board to withhold such declaration because of claimed irregularities in connection with the election.

2. Where five members of a board of education are to be elected, three for four years and two for two years, and the two receiving the highest number of votes for the two year term also are among the three receiving the highest number of votes for the four year term, it is the duty of the board of education canvassing the vote to declare such persons elected to both terms. Since such persons cannot qualify for both terms, their failure to qualify for the one will create vacancies which the board is authorized to fill in accordance with the provisions of Section 4748 of the General Code.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1293.

APPROVAL, BONDS OF EUCLID VILLAGE SCHOOL DISTRICT, CUYA-
HOGA COUNTY—\$100,000.00.

COLUMBUS, OHIO, December 14, 1929.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.