

authority conferred by law. A county board of court may, however, at the term or session at which an order is made, revise or rescind it, provided this is done before any rights accrue thereunder, but ordinarily they have no power to do such act subsequent to such term or session. * * *

It should be noted that said quotation refers to orders of a board of county commissioners. In the instant situation no such case is presented since the resolution was not in the nature of an order but was a mere administrative rule of no legal binding force. That is to say, by the terms of the rule, when the sheriff presented a request for mileage covered by himself or his deputies in cars furnished by the sheriff, the county commissioners were to compensate him therefor at the rate of ten cents per mile.

In view of the foregoing, I am of the opinion that a board of county commissioners may rescind a resolution relative to an administrative function, such as setting a flat mileage rate for automobiles furnished and used by a sheriff.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3868.

ELECTION LAW—WRITTEN ENDORSEMENT BY MEMBER OF POLITICAL COMMITTEE NOT VIOLATIVE OF SECTION 4785-225, GENERAL CODE—LIMITATION.

SYLLABUS:

The signing of a written statement by a member of a political committee, endorsing a person for a certain position is not violative of Section 4785-225, General Code, in the absence of any language in such statement purporting to authorize another person to act in the stead of the signer thereof.

COLUMBUS, OHIO, December 16, 1931.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“The question has just been raised by one of the boards of elections in Ohio, as to whether or not the using and signing of the following form can be construed as a proxy or giving the impression of a preference by a member of a political committee in violation of Section 4785-225, General Code. The form is as follows:

‘I hereby endorse for the position of for the term beginning March 1932, when said resolution is placed before our committee.

.....
(signature committee member)’

I shall appreciate it if you will advise whether or not such form is contrary to Section 4785-225, General Code of Ohio." Section 4785-225, General Code, provides:

"Whoever, being a party committeeman or party delegate or alternate chosen at an election, or a delegate or alternate appointed to a convention provided by law, gives or issues a proxy or authority to another person to act or vote in his stead; or whoever knowingly or fraudulently attempts to impersonate, act or vote in his stead, or acts or votes in place of such committeemen or delegates shall, upon conviction thereof, be fined not less than fifty nor more than five hundred dollars, or imprisoned in the county jail not more than sixty days, or both."

The inhibition of the foregoing section is against the giving or issuing by a political committeeman of a proxy or authority authorizing another person to act or vote in his stead. I find nothing in the form submitted purporting to authorize any person to act in the stead of the person signing it. It is a mere declaration of preference and constitutes an expression of intention on the part of the signer to act pursuant to such preference. The statement substantially says that the signer is for a certain person and shall vote for that person. Even aside from the rule of strict construction adhered to by the court in construing penal statutes in favor of the accused, I do not think the statement in question may be construed as a proxy or authority authorizing another to act in the stead of the signer thereof.

You ask whether the form may be construed as giving the impression of a preference. As hereinabove indicated, I think it unquestionably does, but Section 4785-225 does not purport to preclude a party committeeman from saying either orally or in writing who he might intend to vote for or intend not to vote for. It might be well to observe in conclusion that such a written endorsement may not be used as a vote at the time the question officially comes before the committee.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3869.

APPROVAL, BONDS OF PIKE TOWNSHIP, PERRY COUNTY, OHIO—
\$2,000.00.

COLUMBUS, OHIO, December 16, 1931.

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

3870.

APPROVAL, BONDS OF VILLAGE OF BROOK PARK, CUYAHOGA
COUNTY, OHIO—\$12,847.92.

COLUMBUS, OHIO, December 16, 1931.

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