

3. In view of the provisions of Sections 5078-1 and 5078-8, General Code, construed together, an application cannot be made by telegraph for the reason that the law contemplates the application bearing the signature of the applicant.

4. There is no legal authority for an authorized agent or attorney to sign the elector's written application for an absent voter's ballot.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2757.

CORPORATION—NOT FOR PROFIT—CERTIFICATE OF DISSOLUTION—
FEE OF SECRETARY OF STATE.

SYLLABUS:

The secretary of state is authorized and required to charge the sum of \$10.00 for filing the certificate of dissolution of a corporation not for profit.

COLUMBUS, OHIO, October 19, 1928.

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

DEAR SIR:—This will acknowledge receipt of your letter of October 17, 1928, as follows:

“Under date of September 24th I received a letter from The Ohio State Progressive Association, Inc., a copy of which is enclosed.

You will note request is made that your opinion be obtained on certain provisions of Section 176, G. C. The point of the writer is, I believe, that his belief is that a certificate of dissolution can be filed with a five dollar instead of a ten dollar filing fee.

Our reply to the letter mentioned was that it was not felt that your opinion was necessary on the point raised, that the fee on a certificate of dissolution is ten dollars.

In passing, your attention is directed to the fact that indirectly this point has been approved by your department inasmuch as the form varies the filing fee on the reverse thereof.

We are today informed that the Association has requested the Governor's office to obtain an opinion.”

The letter accompanying your communication is as follows:

“We beg to ask that you request the Attorney General for an opinion and ruling on the following:

‘Is the secretary of state required to accept a certificate of dissolution of a corporation not for profit, if the amount of the fee tendered therewith is in conformity with the provisions of Section 176-10 of the General Code?’

In connection therewith permit us to call attention to the following:

‘Section 79 (c) of the General Corporation Act—* * * shall file in the office of the secretary of state * * *.’

‘Section 176-10, G. C.—* * * , or other documents, required by law to be recorded in the office of the Secretary of State.’

‘That Section 176-10 is subsequent to other provisions.’ ”

Section 176 of the General Code is clear upon the point concerning which you inquire. The 8th subdivision of that section is as follows:

"For filing and recording a certificate of amendment which does not increase the number of authorized shares, *or any other certificate or copy required or permitted to be filed by the general corporation act*, or any other certificate or paper not otherwise specifically provided for by statute, the sum of ten dollars."

The italicized portion is clearly applicable to the certificate of dissolution of a corporation filed pursuant to the provisions of Section 8623-79 of the Code. As pointed out, in the letter of the corporation, this section permits the filing of a certificate of dissolution in the office of the secretary of state.

Section 8623-80 states that upon the filing of this certificate, together with other documents, the corporation shall be dissolved. Accordingly it is clear that this is a certificate permitted to be filed by the general corporation act, since both Sections 8623-79 and 8623-80 are parts of the general corporation act.

The 10th subdivision of Section 176 of the Code which is quoted in part in the letter of the corporation is applicable to miscellaneous records, papers and documents, but since the 8th subdivision is specifically applicable to a certificate of the character here involved, manifestly the 10th subdivision does not apply.

By way of specific answer to your inquiry, I am of the opinion that the secretary of state is authorized and required to charge the sum of \$10.00 for filing the certificate of dissolution of a corporation not for profit.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2758.

ABSENT VOTER'S BALLOT—NOTARY PUBLIC MAY NOT CHARGE FEE
FOR ASSISTING VOTERS.

SYLLABUS:

Notaries public may not charge a fee for services performed in assisting absent voters under Section 5078-3, General Code.

COLUMBUS, OHIO, October 19, 1928.

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

DEAR SIR:—I am in receipt of your recent letter which reads as follows:

"We request your opinion on the marked paragraph of the enclosed circular as to whether this section applies to Notary Publics, the question being whether Notary Publics may charge a fee or not."

The marked paragraph of the circular enclosed therein is as follows:

"No election, or other official of the State of Ohio shall make any charge for services rendered to voters under the provisions of the Absent Voters' Law, except the executing officer shall be furnished the postage necessary to transmit the ballot to the home county Board of Elections by registered mail."