

in a safe operating condition and in conformity with these regulations.”

From the foregoing it appears that the regulations apply generally to all liquefied petroleum gas equipment, vessels and systems, including those located at refineries.

It is noted that refineries are excluded from certain provisions of the regulations. Thus, they are excluded from the requirement of Section 4 which calls for the submission to the State of plans and specifications for a proposed installation. Likewise, refineries are excepted from the requirements set forth in Section 5 of the regulations with reference to permits for operation. This exception is conditioned, however, upon compliance with the balance of the regulations under the supervision of the Bureau of Engineering and Safety. Thus, Section 5.0, subparagraph d, provides:

“excepting from these requirements new or existing vessels, equipment, systems or modifications thereto in *any* factory, mill, workshop, place where goods are manufactured, printery, newspaper plant, public utility generating station, *refinery*, mine or quarry which *shall conform to these regulations* under the supervision of the Bureau of Engineering and Safety of the Department of Labor and Industry.” (Italics ours)

Except to the extent noted above it is our conclusion that refineries in this state are subject to the State Police liquefied petroleum gas regulations adopted on January 2, 1951.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: THOMAS L. FRANKLIN
Deputy Attorney General

TLF:lc

JANUARY 9, 1956

MR. REUBEN C. STROUSE, *Chairman*
Hunterdon County Board of Elections
Flemington, New Jersey

FORMAL OPINION, 1956—No. 1

DEAR MR. STROUSE:

You request our opinion as to whether your County Board of Elections should count and canvass absentee ballots voted in school elections.

Chapter 211 of the Laws of 1953 is known and may be cited as the “Absentee Voting Law (1953)” —N.J.S.A. 19:57-1 et seq., P.L. 1953, c. 211, p. 1577.

The Absentee Voting Law by section 3 provides:

“3. The following persons shall be entitled to vote by absentee ballot in any election to be held in this State in the manner hereinafter provided.”

The statute then defines a “military service voter” and a “civilian absentee voter”, and the manner of obtaining ballots.

Section 6 of the act further provides :

"6. In the case of any State-wide or county-wide election, the application or request shall be made to the county clerk of the county.

In the case of any municipal election, the application or request shall be made to the clerk of the municipality; in the case of any school election, the application or request shall be made to the district clerk of the school district and in the case of any election to be held in any fire district, road district, sewerage district, street lighting district, water supply district or other special district, other than a municipality, created for specified public purposes within one or more municipalities, the application or request shall be made to the commissioners or other governing or administrative body of the district, or to the clerk of any municipality in, or forming part of, the district, in which such election district is situated, and in case such application or request is made to any such officer other than the county clerk, such officer shall forward the same to the county clerk forthwith."

* * *

With respect to the count and canvass of absentee ballots, section 31 of the act provides :

"31. On the day of each election each county board of elections shall open in the presence of the commissioner of registration or his assistant or assistants the inner envelopes in which the absentee ballots, returned to it, to be voted in such election, are contained, except those containing the ballots which the board or the County Court of the county has rejected, and shall remove from said inner envelopes the absentee ballots and shall then proceed to count and canvass the votes cast on such absentee ballots, but no absentee ballot shall be counted in any primary election for the general election if the ballot of the political party marked for voting thereon differs from the designation of the political party in the primary election of which such ballot is intended to be voted as marked on said envelope after the canvass is completed, the respective county boards of election shall certify the result of such canvass to the county clerk or the municipal or district clerk or other appropriate officer as the case may be showing the result of the canvass by ward and district, and the votes so counted and canvassed shall be counted in determining the result of said election."

It will be noted that this section authorizes and directs the county board to certify the result of such canvass to the district clerk, or other appropriate officer as the case may be.

The office of District Clerk was first created by the original school law of 1903, and presently the power to appoint is detailed in R.S. 18:7-69, P.L. 1953, Chapter 255. The title of District Clerk was changed to that of Secretary, (R.S. 18:7-68, P.L. 1953, c. 255, p. 1751). This amended section in substance provided that the title of every district clerk in office from July 1, 1953 is changed to that of secretary.

The Absentee Voting Law should be liberally construed to effectuate its purposes and the cited sections clearly contemplate that a "military service voter" and "civilian absentee voter" may vote in school elections and the statute imposes upon the county boards of election a duty to count and canvass such absentee ballots. They should be

treated and counted in the same manner as absentee ballots for the general election and the result of the canvass certified to the appropriate district clerk.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: JOSEPH LANIGAN
Deputy Attorney General

JL:MG

JANUARY 11, 1956

MR. WILLIAM J. JOSEPH
Assistant to Secretary
Division of Pensions
State House Annex
Trenton, New Jersey

FORMAL OPINION, 1956—No. 2

DEAR MR. JOSEPH:

You have asked our opinion as to whether a teacher who retires as a member of the Teachers' Pension and Annuity Fund upon full retirement allowance at a time when she lacks a sufficient period of service in order to be covered by Social Security may continue to be paid such full retirement allowance in the event she subsequently becomes eligible to receive Social Security benefits by reason of public employment covered by Social Security.

You have brought to our attention a situation which may likely come about now that, by virtue of the authority of c. 37, P.L. 1955, the State Agency for Social Security has entered into a contract with the Secretary of the United States Department of Health, Education and Welfare for the purpose of extending Social Security coverage to members of the Teachers' Pension and Annuity Fund effective January 1, 1955. You ask us to contemplate a situation in which a teacher retires on full retirement allowance effective March 31, 1956, at a time when she will have only five quarters of coverage under Social Security instead of the six quarters which are necessary to entitle her to Social Security benefits. You ask us to assume further that such teacher is immediately re-employed as of April 1, 1956 as a substitute teacher, a position which is not covered by the Teachers' Pension and Annuity Fund, but which would be covered by Social Security. As a result of such employment for a period of three months, such teacher would obtain her sixth quarter of Social Security coverage, thereby making her eligible to receive Social Security benefits if she has attained the required age. Incidentally, during this three month period of employment as a substitute, she might still continue to receive her pension inasmuch as R.S. 43:3-5, as amended, removes the disqualification established by R.S. 43:3-2, as amended, against a pensioner holding public employment in the case of a retired member of the Teachers' Pension and Annuity Fund who is employed by the State, county, municipality, or school district "at a salary or compensation of not more than seven hundred fifty dollars (\$750.00) per year."

Specifically, you ask whether or not, in the situation outlined in the paragraph