

SEPTEMBER 20, 1956

MR. HAROLD E. WINDER  
*Chairman, Cape May County Board of Elections*  
Cape May Court House, N. J.

## MEMORANDUM OPINION—P-28

DEAR MR. WINDER:

You have asked for our opinion whether certain persons whose names have been removed from the registration list during the year 1956 in accordance with the provisions of N.J.S. 19:31-15 may reregister before September 27, 1956 and in this manner become qualified to vote in the General Election to be held on November 6, 1956.

N.J.S. 19:31-15, after providing for the manner and method in which the registered names of persons may be removed from the registry list, provides as follows:

"Any person affected by any action of the county board in counties not having a superintendent of elections shall, during the two weeks immediately preceding any election and on election day, have the right to make application to any judge of the County Court of that county, for the purpose of obtaining an order entitling him to vote in the district in which he actually resides. The burden of proof shall be upon the applicant. The judge of the County Court if satisfied that the applicant is entitled, under the law, to vote at such election, and after determining the election district in which such person actually resides, may issue an order directing the district board of that district to permit such person to vote. Such person must reregister before voting at any subsequent election by court order or otherwise. If the applicant shall be refused the right to vote, due to inability of the district board or of the commissioner or of the county board to find the permanent registration forms of such applicant, then in addition such applicant shall establish by reference to the registry lists of former elections, that he was previously registered. Such evidence shall be deemed sufficient to establish the fact that the applicant was formerly registered. If the order is directed to a district board, the district board shall certify and return the order at the close of the election to the commissioner."

A reading of the foregoing shows an intent by the Legislature that the only remedy available to a person whose name has been removed from the registry list is to make application to the judge of the county court for an order directing the District Board of Elections to permit such person to vote. If a person fails to avail himself of such remedy, he cannot qualify himself to vote at an election to be held in the same year in which his name is removed from the registry list. If a person whose name had been removed from the registry list could reregister and vote in the same year in which his name was removed, the language "such person must reregister before voting at any subsequent election by court order or otherwise" would be meaningless. It is clear from the entire context of the statute that "any subsequent election" refers to any general or primary election subsequent to the election held in the year in which disqualified voter's name has been removed by the County Board of Elections.

It is our opinion that persons whose names have been removed from the registry list during the year 1956 are not qualified to vote at the General Election to be held

on November 6, 1956 unless such persons secure from the judge of the county court an order directing the District Board to permit such persons to vote. Any attempted reregistration by such persons before municipal clerks to vote in the General Election of 1956 are therefore invalid.

To carry out the intent of the Legislature under the provisions of N.J.S. 19:31-15, it is our opinion that the County Board of Elections has the authority and the duty to do any and all things to prevent fraudulent and improper voting, including voting by persons whose names have been removed from the registry list for disqualification and who have not obtained an order of the county court permitting them to vote.

Very truly yours,

GROVER C. RICHMAN, JR.  
*Attorney General*

By: SAUL N. SCHECHTER  
*Deputy Attorney General*

SNS/LL

SEPTEMBER 26, 1956

HONORABLE ROBERT L. FINLEY  
*Deputy State Treasurer*  
State House  
Trenton, New Jersey

MEMORANDUM OPINION—P-29

DEAR MR. FINLEY:

Our opinion has been requested concerning two questions which have arisen in connection with the authority vested in the Division of Purchase and Property to award contracts respecting the construction of buildings or public works. The questions posed are (1) whether contracts, invoices, change orders and other documents executed with respect to the construction of a building or public work require the approval of an agency or department of the State other than the Division of Purchase and Property; and (2) whether contracts executed with respect to the construction of a building or public work may validly provide that approval or acceptance of the promised performance by an agency or department which did not execute the contract on behalf of the State is a condition precedent to payment.

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IS APPROVAL OF CONTRACTS, INVOICES AND CHANGE ORDERS BY AGENCY OR DEPARTMENT OTHER THAN DIVISION OF PURCHASE AND PROPERTY NECESSARY?

We turn first to the pertinent provisions of Title 52 vesting contracting power in the Division of Purchase and Property:

"All purchases, contracts or agreements, the cost or contract price whereof is to be paid with or out of State funds shall, except as otherwise provided in this act, be made or awarded only after public advertisement for bids therefor, in the manner provided in this act." (N.J.S.A. 52:34-6).