

2213.

NOMINATING PETITION—NEED NOT BE HANDWRITTEN—MUST
CONTAIN SIGNATURES OF SIGNERS.

SYLLABUS:

No section of the General Code of Ohio requires that the blanks contained in nominating petitions, which follow the form set forth in Section 4970, General Code, must be filled in in the handwriting of the petitioner. Obviously such petitions must contain the signatures of the several signers.

COLUMBUS, OHIO, June 9, 1928.

HON. CHARLES P. TAFT, 2ND, *Prosecuting Attorney, Cincinnati, Ohio.*

DEAR SIR:—This will acknowledge your letter dated June 7, 1928, which reads:

"I am writing to ask whether your office has very recently given an opinion in reference to the form of nominating petitions. I understand that information has been circulated locally that the nominating petitions for the office of State Central Committeeman (Precinct Executives) will not be considered legal if made out in typewriting, but that all blanks must be filled in in handwriting. The statement was made that this is in compliance with a recent ruling of your office. We are not familiar with any ruling of this sort and I am writing to ask if you can inform me as soon as possible, whether or not you have given any opinion along this line.

In view of the proximity of the date for the filing of nominating petition, I would very much appreciate an early reply."

Specifically answering the question that you present, this office has not rendered its opinion upon such question. Possibly you refer to Opinion No. 858, dated August 12, 1927, the syllabus of which reads:

"Nominating petitions under Chapter 7, Title XIV, of the General Code of Ohio, need not be signed in ink or indelible pencil."

Your attention is directed to Section 4960, General Code, which, in so far as pertinent, provides:

"* * * Candidates for election as state central committeemen may be nominated in the same manner as is herein provided for the nomination at primaries of candidates for district offices, * * *."

By the terms of Section 4952-1, General Code,

"Candidates for district offices, where such district includes more than one county, which shall include all candidates for member of the house of representatives in the congress of the United States, other than congressman-at-large, shall be nominated by direct vote of the people in the manner following: Each person desiring to become a candidate for election to such office in this state shall, not less than sixty days before the date of the primary election fixed by law to be held in the even numbered years, file with the clerk of the board of deputy state supervisors of elections of the county in which such candidate resides, a declaration of candidacy signed and acknowledged and certified to by a certificate of five electors of the district

who are members of the political party to which such candidate belongs
* * *

Section 4970, General Code, provides in part as follows:

"The name of no candidate for office or for committeeman or delegate or alternate shall be printed upon an official ballot used at any primary unless prior to the beginning of the period limited by law, a declaration of candidacy and certificate shall have been filed with the state supervisor of elections or with the board of deputy state supervisors in his behalf *in substantially the following form:*

* * *

(Then follows a form of declaration of candidacy for office other than that of president or vice-president of the United States, together with a form of certificate of five electors which shall be filed with each declaration of candidacy)"

Section 4974, General Code, provides for the filing of protests against the candidacy of any person seeking to become a candidate of any political party and provides that "*no declaration of candidacy shall be rejected for mere technical defects.*"

In this connection your attention is directed to the case of *State ex rel. Smith vs. Smith, Secretary of State*, 101 O. S. 358, the syllabus of which reads:

"1. The scope of protests, provided for in Section 4974, General Code, against the candidacy of persons at primary elections, is, by the terms of that section, limited to the questions whether the candidate is an elector of the state or of the district or county in which he seeks to become a candidate, and has fully and truthfully complied with the provisions of the law with regard to the preparation and filing of his declaration of candidacy; and the state supervisor of elections has no authority to hear or determine protests on grounds not within these limitations.

2. If a candidate is an elector of the state, or of the district or county in which he seeks to become a candidate, and has fully and truthfully complied with the provisions of the law with regard to the preparation and filing of his declaration of candidacy, the state supervisor of elections or deputy state supervisors and inspectors of elections have no discretion in the matter, but only a mere ministerial duty to perform, to certify the candidate's name to be printed on the primary ballot, and may be compelled by mandamus to perform that duty."

Specifically answering your inquiry, I am of the opinion that no section of the General Code requires that the blanks contained in nominating petitions under Chapter 7, Title XIV, of the General Code of Ohio must be filled in in the handwriting of the petitioner. So long as such petitions are legible and in substantial compliance with Section 4970, General Code, and the petitioner has fully and truthfully complied therewith, the state supervisor of elections or deputy state supervisors and inspectors of elections have no discretion in the matter, but only a ministerial duty to perform, viz., to certify the candidate's name to be printed on the primary ballot. Obviously the petition must contain the signatures of the several signers.

Respectfully,

EDWARD C. TURNER,
Attorney General.