

You are therefore advised that these bonds do not constitute legal and valid obligations of the school district, and you are advised not to accept the same.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

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3496.

APPROVAL, ARTICLES OF INCORPORATION OF "THE TOLSTOI MUTUAL AID SOCIETY."

COLUMBUS, OHIO, July 1, 1926.

HON. THAD H. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I am returning to you herewith the articles of incorporation of "The Tolstoi Mutual Aid Society," with my approval endorsed thereon.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

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3497.

ELECTIONS—DECLARATION OF CANDIDACY—BOARD SHOULD NOT REJECT FOR MERE TECHNICAL DEFECTS WHEN IT IS POSSIBLE TO DETERMINE FOR WHICH OFFICE THE DECLARANT IS A CANDIDATE.

*SYLLABUS:*

*Declarations of candidacy should not be rejected for mere technical defects when the Board of Deputy State Supervisors and Inspectors of Elections are able to determine from the petition the office for which the declarant is a candidate.*

COLUMBUS, OHIO, July 2, 1926.

HON. THAD H. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your communication enclosing papers from the Franklin County Board of Deputy State Supervisors and Inspectors of Elections, which papers include a declaration of candidacy for member of County Central Committee and a copy of the minutes of such board with respect to such declaration of candidacy.

The declaration of candidacy submitted herewith is on a form prescribed and furnished by the Board of Elections and is filled out correctly in all particulars, except as to the office for which the declarant is a candidate. This paragraph reads as follows:

"I hereby declare myself a candidate for election to the position of member of the Franklin County Central Committee from Prec. A—2nd Ward, Columbus, Ohio, in said county, to be made at the Primary Election

to be held on the 10th day of August, 1926, and hereby request that my name be printed upon the official primary ballot as provided by law as a candidate of the Democratic party."

Also in the certificate of five electors, which is a part of such declaration, the office is described as "member of the Democratic County Central Committee from Prec. A—Ward 2—Columbus, Ohio."

The certificate of the five electors states the county, the city, ward and precinct of such signers and as shown thereby the signers are from Precinct A, B and P of the Second Ward.

The copy of the minutes of the Board of Deputy State Supervisors and Inspectors of Elections for Franklin county recite that the Democratic County Central Committee has by resolution unanimously adopted by said outgoing committee, provided that the incoming County Central Committee shall be elected by wards and townships.

Your question is whether these declarations be rejected for the reason that they do not conform to the resolution of such County Central Committee, specifying that the Central Committee shall be elected by wards and townships.

Section 4970 of the General Code provides 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:

"DECLARATION OF CANDIDACY FOR THE OFFICE OF PRESIDENT OR VICE-PRESIDENT OF THE UNITED STATES.

"I, \_\_\_\_\_, hereby declare that I am a resident of the state of \_\_\_\_\_ and a qualified elector of such state. I am a member of the \_\_\_\_\_ party and am a candidate for nomination to the office of \_\_\_\_\_, subject to the action of the national convention of such party, to which delegates will be elected in the state of \_\_\_\_\_ at a primary to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. I hereby request that my name be printed on the official primary ballot as provided by law as a candidate of the \_\_\_\_\_ party, and further declare that if nominated and elected, I will qualify as \_\_\_\_\_ and will support and abide by the principles of the \_\_\_\_\_ party as adopted and declared in its national platform.

"Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Signature of candidate or authorized representative.

"Witnessed by

\_\_\_\_\_  
"DECLARATION OF CANDIDACY FOR OFFICE OTHER THAN THAT OF PRESIDENT OR VICE-PRESIDENT OF THE UNITED STATES.

"I, \_\_\_\_\_ hereby declare that I reside at No. \_\_\_\_\_ street, in the \_\_\_\_\_ of \_\_\_\_\_ (or in precinct \_\_\_\_\_ township)

county of \_\_\_\_\_, Ohio, and am a qualified elector therein. I am a member of the \_\_\_\_\_ party and intend to vote for a majority of the candidates of such party at the coming election. At the last general election (did not vote) (I voted for majority of the candidates of such party at such election). I hereby declare myself a candidate for nomination to the office of \_\_\_\_\_ to be made at the primary election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and hereby request that my name be printed upon the official primary ballot as provided by law as a candidate of the \_\_\_\_\_ party.

"I further declare that, if nominated and elected, I will qualify as \_\_\_\_\_ and that I will support and abide by the principles enumerated by the \_\_\_\_\_ party in its national platform and in its platform in this state adopted during the present year.

"Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_."

\_\_\_\_\_  
Signature of Candidate.

"The State of Ohio, County of \_\_\_\_\_ ss:

"Personally appeared before me the undersigned, a \_\_\_\_\_ in and for said county, this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 19\_\_\_\_, the above named \_\_\_\_\_, who acknowledged the signing of the above declaration to be his free act and deed and that the statements made therein were true as he verily believed.

"Witness my hand and official seal \_\_\_\_\_ on the day and year last aforesaid \_\_\_\_\_.

**"CERTIFICATE OF FIVE ELECTORS WHICH SHALL BE FILED WITH EACH DECLARATION OF CANDIDACY.**

"We, the undersigned, qualified electors of the state of Ohio, and the county, city, township, ward and precinct set opposite our names, and members of the \_\_\_\_\_ party, hereby certify that \_\_\_\_\_ who resides at No. \_\_\_\_\_ on \_\_\_\_\_ Street of \_\_\_\_\_ city of \_\_\_\_\_ or (in the township of \_\_\_\_\_) in the county of \_\_\_\_\_, and who is a candidate for the office (or position) of (here specify office or position) \_\_\_\_\_ to be voted for at the primary next hereafter to be held, and whose declaration of candidacy is herewith filed, is a member of the \_\_\_\_\_ party, and is well qualified to perform the duties of the office for which he is a candidate.

Signatures	Residence	Ward	Precinct	Township
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

"The State of Ohio, County of \_\_\_\_\_ ss:

"Personally appeared before me the undersigned; a \_\_\_\_\_, in and for said county, this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 19\_\_\_\_ above named \_\_\_\_\_, and \_\_\_\_\_ who each severally acknowledged the signing of the above certificate to be his free act and deed and that the statements made therein were true as he verily believed.

"Witness my hand and official seal \_\_\_\_\_ on the

day and year last aforesaid-----

"In the case of a candidate for office other than for committeeman, delegate or alternate or president or vice president of the United States, the proper fee must also be paid at the time of filing the declaration of candidacy."

Section 4973 of the General Code provides as follows:

"Each candidate shall state in his declaration of candidacy that he will qualify as such officer if nominated and elected, and each candidate shall also state in his declaration that he will support and abide by the principles enumerated by his political party in such national or state platform as may have been adopted by it prior to such primary in the year in which he is seeking such nomination, or which may be subsequently adopted."

Section 4974 of the General Code, in part provides as follows:

"Protests in writing against the candidacy of any person seeking to become a candidate of any political party may be filed only by a recognized member of such party, or by the controlling committee thereof. \* \* \* In case of protests filed against candidates for county offices or offices of a district lying within a county, the same shall be heard and determined by the board of deputy state supervisors of such county, and its decision shall be final. \* \* \* If it is found that such candidate is not an elector of the state or of the district or county in which he seeks to become a candidate, or has not fully complied with the provisions of law as herein provided, his name shall be withdrawn and shall not be printed upon the ballot; and no declaration of candidacy shall be rejected for mere technical defects."

Section 5005 of the General Code provides as follows:

"When so filed, certificates of nomination and nomination papers shall be preserved and be open, under proper regulations, to public inspection. If in apparent conformity with the provisions of this chapter, they shall be deemed to be valid unless objection thereof is duly made in writing within five days after the filing thereof."

In the case of *State ex rel. vs. Smith*, 101 Ohio St. page 358, the court in construing section 4974 of the General Code, says as follows:

"The scope of protest, provided for in section 4974, General Code, against the candidacy of persons of 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 supervisors of elections or deputy state supervisors or inspectors of elections have no authority to hear and determine protests on grounds not within these limitations."

In the declaration of candidacy submitted herewith it may be said that the candidate has fully and truthfully complied with the provisions of law with regard to the preparation and filing of his declaration of candidacy. The fact that the declarant has indicated the precinct in addition to the ward in his designation of

the office for which he is a candidate. it is believed would bring such declaration within the rule laid down in the case of *State ex rel. vs. Smith*, supra. In other words the irregularity as disclosed by the declaration of candidacy is not such as was intended by section 4974 of the General Code.

The inclusion in the declaration of candidacy of the precinct designation can be considered as mere surplusage if it can be determined from the petition the office for which the declarant is a candidate. As the declaration of candidacy shows that the declarant is a resident of the second ward, his declaration being signed by electors of several precincts in such ward, and that he is a candidate for the Democratic County Central Committee, together with the fact that it has been provided by resolution by the outgoing committee that such committee shall be elected by wards and townships, it is believed that the Board of Deputy State Supervisors and Inspectors of Elections can determine the office for which the declarant is a candidate.

While it is extremely doubtful whether such irregularity is in fact a defect in such declaration of candidacy, if there is a defect it is certainly only a technical defect, and therefore, under section 4974 of the General Code the same should be disregarded if the Board is able to determine the office for which the declarant is a candidate.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

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3498.

APPROVAL, BONDS OF VILLAGE OF GRANDVIEW HEIGHTS, FRANKLIN COUNTY, \$3,250.00.

COLUMBUS, OHIO, July 2, 1926.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

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3499.

ABSTRACT, STATUS OF TITLE, TO PREMISES IN JOHN W. BURTON'S SUBDIVISION, WOODRUFF'S ADDITION TO THE CITY OF COLUMBUS.

COLUMBUS, OHIO, July 3, 1926.

HON. CARL E. STEEB, *Secretary, Board of Trustees, Ohio State University, Columbus, Ohio.*

DEAR SIR:—You have submitted an abstract last continued by Dana F. Reynolds June 17, 1926, and inquired as to the status of the title of lots Nos. 25 and 27 of John W. Burton's Subdivision of the north half of the south half of Lot No. 278 of R. P.