

1973.

PRESIDENTIAL DELEGATE BALLOTS—PREPARATION OF SAME BY
SECRETARY OF STATE.

SYLLABUS:

In the preparation of presidential delegate ballots, where there are qualified candidates at least equal to the number to be elected, the Secretary of State is not authorized to leave a single blank line or space at the end of the list of candidates for such office.

COLUMBUS, OHIO, April 14, 1928.

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

DEAR SIR:—This will acknowledge receipt of your recent communication requesting my opinion as follows:

“We request your opinion as to whether or not blank spaces shall be left upon the Presidential Delegate ballot, in which the elector may, if he desires, write the names of persons other than those appearing upon the ballot for delegate.”

Your question pertains to candidates for delegates to the national convention. Your attention is directed to the provisions of Section 7 of Article V of the Constitution of Ohio as follows:

“Section 7. * * * Each candidate for such delegate shall state his first and second choices for the presidency, which preferences shall be printed upon the primary ballot below the name of such candidate, but the name of no candidate for the presidency shall be so used without his written authority.”

In this connection also, your attention is further directed to the provisions of Section 4954, General Code, as follows:

“Sec. 4954. * * * Each person seeking to be elected as delegate or alternate to such national convention shall file with his declaration of candidacy and certificate, a statement in writing signed by him in which he shall state his first and second choice for nomination as candidate of his party for the presidency of the United States and the state supervisor of elections shall not permit any declaration of candidacy and certificate of a candidate for election as such delegate or alternate to be filed unless accompanied by such statement in writing; providing always, however, that the name of no candidate for the presidency shall be so used without his written consent. The name of such first and second choice for nomination as candidate for the presidency of each candidate for election as such delegate or alternate shall be printed and appear on the primary ballots immediately below the name of such candidate in such a way as to clearly disclose the preference of each candidate. * * *”

While some question might be raised as to the right to vote for any one for delegate to a national convention who has not made a statement of choice, I find it unnecessary to pass upon this question in view of the lack of statutory authority to provide a blank space. In so stating, however, it should be understood that I am

assuming that in each instance there are avowed candidates at least equal in number to the delegates to be elected.

Section 5025, General Code, containing the general provisions relative to the printing of ballots, is as follows:

“All ballots shall be printed on the best quality, number two, book paper, in black ink, and, with the exception of the heading, which shall be in display, in brevier type, the name or designation of the office in lower case, and the name of the candidate therefor in capital letters, with a space of at least one-fifth of an inch following each name. The name of each candidate shall be printed in a space defined by ruled lines, and with a blank square on its left, enclosed by heavy, dark lines. If upon a ticket there is no candidate or candidates for a designated office, a blank space, equal to the space that would be occupied by such name or names if they were printed thereon with the blank spaces herein provided for, shall be left.”

The only statutory provision that I have been able to find requiring a single blank line or space at the end of the list of candidates for each different office is the one contained in Section 5028, General Code, as follows:

“The names of candidates for municipal offices and the names of candidates for township offices shall be printed upon separate ballots, unless the corporate limits of the municipalities are identical with those of a township. Separate ballots shall be provided in all townships and in municipalities having a population of less than two thousand in which no primary is had for making nominations, which ballots so intended for the use of voters shall be so arranged and printed that the names of all candidates, whose nominations for any offices specified in the ballot have been duly made, will be grouped under the designation or title of the office for which nominated, in alphabetical order according to surnames. A single blank line or space shall be left at the end of the list of candidates for each different office.”

This section governs the form of ballot in all those townships and municipalities in which no primary election has been held. It will be noted that by the last sentence of this section it is provided, “A single blank line or space shall be left at the end of the list of candidates for each different office.”

In an opinion of this department, reported in Opinions, Attorney General, 1915, Volume 2, page 1988, the syllabus is as follows:

“Upon the ballot for township officers, in townships in which no primary elections have been held, there should be provided at the end of the list of candidates for each particular office a number of blank lines or space equal to the number of electors authorized to be elected to the designated office and electors may vote for such electors, other than those whose names are printed upon the ballot, as they may choose by writing in the blank space or spaces the name of their choice and placing a cross mark in front of the name so written in.”

The concluding paragraph on page 1990 of the above mentioned opinion is as follows:

“No purpose for providing blank spaces at the end of lists of candidates can be suggested other than that electors may write therein the names of such

electors as they may desire to be elected to that office and express their choice for that elector by placing a cross mark in front of the name so written on the ballot, and I am therefore of opinion that electors may lawfully write in the names of electors and vote for the person whose name is so written in the manner suggested."

These are the only provisions for blank spaces in ballots and, as you will observe, Section 5028, General Code, is only applicable in township and municipal elections. Section 5025, General Code, clearly only authorizes a blank space where there is no candidate or candidates for a designated office and there exists no authority otherwise to provide a blank space on the ballot for delegates to national conventions.

Specifically answering your question, therefore, it is my opinion that in the preparation of presidential delegate ballots where there are qualified candidates at least equal to the number to be elected, you are not authorized to leave a single blank line or space at the end of the list of candidates for such office.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1974.

CANAL LANDS—DUTY OF DIRECTOR OF HIGHWAYS TO SURVEY
ABANDONED PORTION OF MIAMI AND ERIE CANAL—USE OF GENERAL APPROPRIATION.

SYLLABUS:

1. *Under the provisions of Sections 14153-5 and 14153-6, General Code, it is the duty of the Director of Highways, as soon as it may be practicable, to cause surveys to be made of that portion of the Miami and Erie Canal abandoned by the provisions of Amended Senate Bill No. 39 (112 v. 388-390), together with maps and plans of the same; and further, to make a plat or plan showing the highway proposed to be constructed thereon, its length, grades and width and so much of the canal property as may be used for such highway purposes.*

2. *In carrying out the provisions of Sections 14153-5 and 14153-6, General Code, the Director of Highways is authorized to use general appropriations made to the Department of Highways for the purpose of employing engineers, clerks, and other employees, in paying wages and the necessary traveling expenses of persons employed in carrying out the provisions of said sections, and likewise any other general appropriation made to such department that may be necessary to accomplish the duties of the Director of Highways under said sections.*

COLUMBUS, OHIO, April 14, 1928.

HON. GEORGE F. SCHLESINGER, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your communication of recent date requesting my opinion, as follows:

"Sections 14153-5 and 14153-6 of the General Code, being Sections 5 and 6 of amended Senate Bill No. 39, enacted at the last session of the Legis-