

tions rather than declarations of candidacy. However, the statute plainly shows that it is not meant to cover all the duties and powers of such boards, and the right to reject the declaration of the candidacy of a person who is not eligible to become a candidate surely is necessarily implied from and incident to their duties with respect to the conduct of elections. In the case of *State, ex rel., Lloyd*, 93 O. S. 20, where a nomination petition was involved, while the court held that authority to reject such petition in the absence of protest was conferred upon boards of elections, it also held that such power would be inherent in such boards. The court said in the opinion:

"Not only would the board have the inherent right, but authority is conferred upon it, without objection filed, to reject and refuse to act upon nominating petitions which clearly are not in conformance with the requirements of the law."

A board of elections would have the same inherent power with respect to a declaration of candidacy.

I am of the opinion, therefore, that:

1. Where a person residing in a registration precinct has filed a declaration of candidacy and is not registered as an elector, he is not entitled to have his name appear on the ballot of his party at the primary election as a candidate for coroner.

2. In such a case the board of elections has the authority to reject and refuse to act upon the declaration of candidacy.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4238.

ELECTION LAW—GENERAL REGISTRATION IN A TERRITORY CONTIGUOUS TO A REGISTRATION CITY MAY BE HELD WHEN.

SYLLABUS:

By analogy to section 4785-36, General Code, a general registration in a territory adjoining and contiguous to a county containing a registration city can be held only on Thursday in the fifth week and Friday and Saturday in the fourth week preceding a general election in November.

COLUMBUS, OHIO, April 7, 1932.

HON. R. H. BOSTWICK, *Prosecuting Attorney, Chardon, Ohio.*

DEAR SIR:—I am in receipt of your request for an opinion which reads in part as follows:

"Can a registration be held by the County Board of Election prior to the primary election May 10, 1932, under the present election law, in a territory contiguous to a County containing a registration city?"

I assume that there has been no registration in the territory in question and

that the board of elections desires to hold a general registration for all the qualified electors in such territory.

Section 4785-34, General Code, reads in part as follows:

"In every city which at the last preceding federal census had, or which at any local, state, or federal census provided by law, shall have reached a population of sixteen thousand (16,000), or more, the board of elections shall establish and maintain, in the manner herein provided, a registration of all the qualified electors of such city. Any municipality of less than sixteen thousand (16,000) population may, by ordinance, elect to become a registration municipality. When such ordinance is adopted the board of elections shall establish and maintain a registration of voters as in the case of registration cities. The board of elections, in a county containing a registration city, when it is deemed necessary to prevent fraud in elections, may require registration of voters in suburban municipalities, or territory contiguous or adjacent to such registration city. The board of elections of a county contiguous to a county containing a registration city, when it is deemed necessary to prevent fraud in elections, may require registration of voters in precincts adjoining and contiguous to such adjoining county."

Section 4785-35, General Code, reads in part as follows:

"When once registered in accordance with this act, an elector shall not be required to register again unless his registration is cancelled for reasons as hereinafter provided."

Section 4785-36, General Code, provides as follows:

"The board shall provide such printed forms, blanks, supplies, and equipment, and prescribe such reasonable rules and regulations as are necessary to carry out the provisions herein relating to registration. In the case of cities or municipalities which shall hereafter become registration cities or municipalities a general registration of all qualified electors shall be held on Thursday in the fifth week and Friday and Saturday in the fourth week preceding the next general election thereafter, from 10 a. m. to 2 p. m. and from 4 p. m. to 9 p. m. and thereafter no general registration shall be held in such city or municipalities except as provided herein."

Section 4785-3, General Code, defines "general elections" as follows:

"The term 'general election' shall mean any election held on the first Tuesday after the first Monday in November."

Where quadrennial registrations in a city are provided for by ordinance, section 4785-60, General Code, provides that the board of elections shall hold such registrations in the manner and on the dates as provided for by general registrations.

It is to be noted that while section 4785-34 refers not only to cities that may become registration cities either by ordinance or by increase in population but also to territory outside of municipalities, section 4785-36, General Code, in fixing the time at which general elections shall be held mentions only cities or municipalities. Although the election code provides for registration in territory contiguous or adjacent to a registration city and to precincts adjoining and contig-

uous to an adjoining county containing a registration city, when deemed necessary by a board of elections to prevent fraud, it does not fix the time for such registration nor does it confer upon the boards of elections the authority to fix the time therefor. However, the right of a board of elections to require such registration should not fail because of the failure to fix the time for holding such registration, especially when the statutes show that it is the intention that all general registrations should be held only at certain times, namely, on Thursday in the fifth week and Friday and Saturday in the fourth week preceding a general election.

In the case of *Rulledge vs. State Medical Board*, 106 O. S. 544, it was held that the right of appeal from certain orders of a medical board given by section 1276, General Code, does not fail because of the failure to provide the mode of perfecting it.

In the case of *Wellsville vs. Connor*, 91 O. S. 28, it was held that by analogy to section 5070, General Code, which provided that if for any reason it was impossible to determine the voter's choice for an office, his ballot should not be counted for such office, the ballot of a voter should not be counted under section 3947, General Code, upon a question submitted at an election if from his ballot it was impossible to determine his answer to such question.

By analogy to section 4785-36, General Code, I am of the opinion that a general registration in a territory adjoining and contiguous to a county containing a registration city can be held only on Thursday in the fifth week and Friday and Saturday in the fourth week preceding a general election in November, and therefore cannot be held prior to the primary election on May 10, 1932.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4239.

TAX AND TAXATION—REAL ESTATE PURCHASED BY GUARDIAN WITH FUNDS RECEIVED FROM UNITED STATES VETERANS BUREAU—WARDS INTEREST TO EXTENT PAID FROM SUCH MONEY IS EXEMPT FROM TAXATION.

SYLLABUS:

When a guardian of an incompetent person or minor, with the approval of the probate court, purchases real estate, paying a portion of the purchase price thereof with funds received from the United States Veterans Bureau by said guardian for said ward, the balance of said purchase price to be paid in installments or at a future time, and title to said real estate is taken in the name of such ward, the interest of said ward in said real estate, to the extent of the amount of the purchase price so paid, is exempt from taxation.

COLUMBUS, OHIO, April 7, 1932.

The Tax Commission of Ohio, Wyandotte Building, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your communication in which you inclose a letter from County Auditor A. J. Thatcher which reads in part as follows: