

statute requiring it, is so violative of the intent and purpose of the primary law as to invalidate the election.

The fact that the auditor of Brown county, by his arrangement of the ballot, intended an advantage to the contestee, does not invalidate the election, if the arrangement was one which legally he might make."

There is no doubt but that when the statute does not require rotation, and the names are not rotated, the election is valid. It is interesting to note that the court held the election valid, notwithstanding the fact that the boards of elections in four of the counties had rotated the names without statutory authority therefor.

A rotation of names, however, by precincts is not authorized by the general election laws, and such a rotation is obviously not a compliance with Section 4785-80, supra. As herein indicated, Section 4785-161 (1) in effect provides that these provisions as to rotation shall not apply in the case of the use of voting machines.

It is accordingly my opinion that there is no statutory requirement as to the rotation of names of candidates when voting machines are used, and elections at which such machines are used and such names not rotated, is valid.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3722.

APPROVAL, BONDS OF MONROE COUNTY, OHIO—\$8,915.02.

COLUMBUS, OHIO, November 2, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3723.

APPROVAL, BONDS OF MONROE COUNTY, OHIO—\$15,213.96.

COLUMBUS, OHIO, November 2, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3724.

CANDIDATE—DEFEATED AT PARTY PRIMARY—MAY BE ELECTED
AT A GENERAL ELECTION WHERE NAME WRITTEN IN ON
BALLOT.

SYLLABUS:

A person may be legally elected to the office of mayor of a city if a sufficient number of electors of the municipality vote for him by writing in his name