

I am herewith returning to you said abstract of title, warranty deed form and encumbrance estimate No. 561.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2020.

ELECTION LAW—DISTRIBUTION OF SMALL BLOTTER WITH CAMPAIGN CARD ON REVERSE SIDE LEGAL.

SYLLABUS:

Section 4785-190, General Code, does not prohibit the circulation of a card to further the candidacy of a candidate, which card is three inches wide and six inches long and printed on blotting paper which is glazed on one side.

COLUMBUS, OHIO, June 24, 1930.

HON. J. D. SEARS, *Prosecuting Attorney, Bucyrus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“The question has been propounded to me by a candidate for public office, whether the distribution gratis of small blotters with a campaign card printed on the reverse would be in contravention of Section 5175-2 of the General Code of Ohio, prohibiting the giving away of anything of value for any purpose in conjunction with a campaign other than the purposes specified in the said section.

A campaign card is distributed for the purpose of persuading the electors to support the candidacy advocated. I doubt whether the small utilitarian value attached to a small blotter would corrupt an elector, nevertheless, I appreciate the attitude of any candidate who would be careful in every particular to obey our election laws, and I feel, therefore, that such an inquiry is deserving of a careful response.

I am enclosing a blotter that comes within the purview of this inquiry, and will be pleased to have an early advice from your office on the matter.”

Section 5175-26, General Code, was repealed by the 88th General Assembly in the enactment of the new Election Law. The pertinent sections of the new law are Sections 4785-190 and 4785-198, 113 O. L. 399 and 401, which provide as follows:

Sec. 4785-190.

“Whoever, before, during, or after any primary, convention or election, gives, lends, offers or procures, or promises to give, lend, offer or procure, any money, office, position, place or employment, influence or any other valuable consideration to or for a delegate, elector or other person; or attempts by intimidation, coercion or other unlawful means, to induce such delegate or elector to register or refrain from registering, to vote or refrain from voting at a primary, convention or election for a particular person, question or issue; or advances, pays or causes to be paid, or procures or offers to procure, money or other valuable thing to or for the use of another, with the intent that it or part thereof shall be used to induce such person to vote or

to refrain from voting, shall be guilty of bribery, and shall, upon conviction thereof, be fined not more than one thousand dollars, or imprisoned in the penitentiary not more than three years, or both; and if he be a candidate he shall forfeit the nomination he received, or if elected to any office he shall forfeit the office to which he was elected at the election with reference to which such offense was committed."

Sec. 4785-198.

"Whoever writes, prints, posts or distributes or causes to be written, printed, posted or distributed, a notice, placard, dodger, advertisement or any other form of publication which is designed to promote the nomination or election or defeat of such candidate, or the adoption or defeat of any issue, or to influence the voters in any election, unless there appears on such form of publication in a conspicuous place, either the names of the chairman or secretary of the organization issuing the same, or some voter who is responsible therefor with his name and address, shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred and not more than one thousand dollars."

You have attached to your letter a blotter three inches wide and six inches long upon which is printed a small photograph of the candidate, together with the following statement:

"YOUR SUPPORT WILL BE APPRECIATED

of-----
DEMOCRATIC CANDIDATE FOR
COUNTY AUDITOR
Primary August 12th, 1930."

In the enactment of Section 4785-198, the Legislature has recognized that notices designed to promote the nomination or election of a candidate may be printed and circulated. Although there is no provision as to the material upon which such notices should be printed, it is the usual practice to use paper or cardboard. There is nothing, however, to preclude the use of blotting paper which is glazed on one side, unless such material is prohibited by Section 4785-190, supra, on the ground that such blotters may be said to constitute a "valuable thing" given for the purpose of inducing the donee to vote for the candidate.

Although the cost of printing the card in question upon a blotter such as you have submitted is probably greater than the cost of printing such card on ordinary heavy paper, and although it has a slight utilitarian value, it is in my view a trifling matter with which the law does not concern itself. The maxim "De minimis non curat lex" is clearly applicable. This principle has been followed in numerous cases of this nature. For the purpose of illustration, it is sufficient to quote from the syllabi of two cases which are in point:

"Where a ground rent deed reserves a yearly rent in a stated number of Spanish milled dollars each weighing seventeen pennyweights and six grains at least, a tender made of the exact amount of money stipulated in the deed, is a good tender, and is not defeated by the fact that it does not include interest for nine days, amounting to one and one-quarter cents. The demand

of one and one-quarter cents even as interest is too small and trifling a matter with which to vex the courts."

—*Milligan vs. Marshall*, App., 38 Pa. Sup. Ct. 60.

"An instruction warranted a recovery of ninety-two cents, and the verdict was actually twelve cents in excess of the amount sued for. Held, that the instruction was harmless, and the excess in the recovery too small to require a remittitur."

—*Cameron vs. Hart*, 57 Mo. App. 142.

Small blotters such as you have submitted are customarily distributed free of charge and their value is negligible. It is, therefore, my opinion that Section 4785-190, General Code, does not prohibit the circulation of a card to further the candidacy of a candidate, which card is three inches wide and six inches long and printed on blotting paper which is glazed on one side.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2021.

CORPORATION—REALTY—CERTIFICATE FOR PERPETUAL SUCCESSION MUST BE FILED WITH SECRETARY OF STATE BEFORE EXPIRATION OF CHARTER.

SYLLABUS:

Under the provisions of Section 8623-134, General Code, a corporation heretofore formed to buy or sell real estate may amend its articles so as to provide for perpetual succession by taking all the steps therein provided at any time during its existence, and there is no authority for filing with the Secretary of State the certificate therein required after the expiration date of the charter of such corporation.

COLUMBUS, OHIO, June 24, 1930.

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

DEAR SIR:—Your letter of recent date is as follows:

"The H. Realty Company of Columbus, Ohio, was incorporated May 16, 1905. By limitation of old Section 8648, et seq. of the Code, the charter of the company expired by limitation on May 16, 1930.

There has been submitted for filing the enclosed certificate to provide for perpetual succession under present Section 8623-134. Please note that the certificate recites that the action was taken by the shareholders at a time within the twenty-five year period after the filing of its articles, viz: December 26, 1929. I am informed by counsel for the company that the certificate was turned over to Mr. H. for filing but due to his leaving for a trip around the world at about that time the certificate was not filed and not discovered until after May 16, 1930.

I have before me Opinion No. 3098 of your predecessor in office, Mr. Turner, Opinion being under date of January 5, 1929. That opinion while concerning the matter of providing for perpetual succession, has to do with