

2399

ELECTIONS—REGISTRATION—LOCATION OF PLACES OF  
REGISTRATION MUST BE CONVENIENT—§3503.12 R.C.—PUB-  
LIC MUST HAVE FREE ACCESS TO SUCH LOCATION.

SYLLABUS:

A board of elections, in providing a place of registration at "convenient locations" within the county as provided in Section 3503.12, Revised Code, is under a duty to select such a location that the public will have "open and unobstructed" access thereto, and may not locate such registration facility on the grounds of an organization or agency which charges fee for admission to such grounds.

Columbus, Ohio, July 18, 1958

Hon. Everett Burton, Prosecuting Attorney  
Scioto County, Portsmouth, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"The Board of Elections of Scioto County has requested an opinion as to whether or not they are permitted by law to establish a Branch Registration Booth at the Scioto County Fair.

"Section 3503.12, Revised Code, provides two methods of establishing branch registration. Sub-section (a) would be the applicable section to this problem. The Statute provides that if this method be implemented the board shall establish sufficient branch offices to enable all eligible voters to register.

"Since an admission is charged to obtain entrance to the fair, not *all* eligible voters would be permitted to register. It is thereby respectfully requested that your office give us an opinion as to whether or not it is proper to establish a registration booth in a place where an admission fee is charged."

In Section 1, Article V, Ohio Constitution, it is provided:

"Every citizen of the United States, of the age of twenty-one years, who shall have been a resident of the state one year next preceding the election, and of the county, township, or ward, in which he resides, such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections."

Free access to polling places is required by Section 3501.33, Revised Code, in the following language:

“All judges and clerks of election shall enforce peace and good order in and about the place of registration or election. They shall especially keep the place of access of the electors to the polling place open and unobstructed and prevent and stop any improper practices or attempts tending to obstruct intimidate, or interfere with any elector in registering or voting. They shall protect challengers and witnesses against molestation and violence in the performance of their duties, and may eject from the polling place any such challenger or witness for violation of any provision of Title XXXV of the Revised Code. They shall prevent riots, violence, tumult, or disorder. In the discharge of these duties they may call upon the sheriff, police, or other peace officers to aid them in enforcing the law. They may order the arrest of any person violating such title, but such arrest shall not prevent such person from registering or voting if he is entitled to do so. The sheriff, all constables, police officers, and other officers of the peace shall immediately obey and aid in the enforcement of any lawful order made by the precinct election officials in the enforcement of such title.”

Restriction of the elective franchise by a registration requirement, if reasonable, is not in violation of the Constitution. *Daggett v. Hudson*, 43 Ohio St., 548. Moreover, the right, as an elector, to sign an initiative petition may likewise be constitutionally restricted. *State, ex rel. Waltz v. Mitchell*, 124 Ohio St., 161.

These requirements are, nevertheless, *restrictions* on the right to vote, and the right to register, *i.e.*, to qualify under such restriction, should certainly not be made the more onerous by limiting the access to the place of registration to any greater extent than is provided by law as to polling places, *i.e.*, by making such access anything less than “open and unobstructed.”

Where a registration facility is located in an enclosure controlled by an organization or agency other than the board of elections, and where such organization or agency charges a fee for admission to such enclosure on the day or days designated for registration, it is clear that the board of elections has not provided “open and unobstructed” access thereto.

I must conclude, therefore, that a board of elections, in providing a place of registration at “convenient locations” within the county as provided in Section 3503.12, Revised Code, is under a duty to select such a

location that the public will have “open and unobstructed” access thereto, and may not locate such registration facility on the grounds of an organization or agency which charges fee for admission to such grounds.

Respectfully.

WILLIAM SAXBE

Attorney General