

under the provisions of Section 1438-1, General Code, enacted as a part of said Conservation Act.

Inasmuch as above noted, this tract of land at the time of the enactment of the Conservation Act, was state land under the care and control of the Superintendent of Public Works, and as such, expressly excepted by the provisions of Section 1438-1, General Code, from the category of state lands of which the Conservation Council took the supervision under said act, the provisions of Section 1438-3, General Code, enacted as a part of said Conservation Act cannot reasonably be construed to include this tract of land as property which under the provisions of said section is required to be transferred to the custody and control of the Division of Conservation. The "property" belonging to, or in the custody of the Department of Public Works for the supervision, maintenance and improvement of the State Reservoir Park which under the provisions of Section 1438-3, General Code, is to be transferred to the custody and control of the Division of Conservation, is, in my opinion, such personal property and equipment as has been heretofore used by the Superintendent of Public Works in improving and maintaining the State Reservoir parks. Aside from the fact that this tract of land is expressly excepted from the control and supervision of the Conservation Council by the provisions of Section 1438-1, General Code, the fact that this lot and the residence building erected thereon are occupied by a person who has devoted a part of his time to the maintenance of Buckeye Lake Park would not bring it within the class of property which the provisions of Section 1438-3, General Code, require to be turned over to the care and control of the Division of Conservation.

Since you, as Superintendent of Public Works, have only such power and authority with respect to the Public Works of the state as are conferred upon you by law (*State ex rel vs. Railway Company*, 37 O. S. 157, 174) you do not in my opinion, have any authority to transfer the care and control of this property to the Division of Conservation.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

1854.

INITIATIVE PETITION—TO BE SUBMITTED TO ATTORNEY GENERAL  
FOR CERTIFICATION OF FORM AND SYNOPSIS—SIGNATURES OF  
AT LEAST ONE HUNDRED ELECTORS NECESSARY.

*SYLLABUS:*

*Before the Attorney General may execute the certificates provided in Section 4785-176, General Code, to be printed upon an Initiative or Referendum petition, there should be submitted to him a petition signed by one hundred or more qualified electors of the state requesting such certifications.*

COLUMBUS, OHIO, May 12, 1930.

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

DEAR SIR:—This is to acknowledge receipt of your letter of recent date requesting my opinion upon the sufficiency of a proposed initiative petition seeking to repeal the Criminal Syndicalism Law of Ohio. Section 4785-176, General Code, provides in part as follows:

"One hundred or more qualified electors of the State may, by a written

petition signed by them, submit any proposed law or constitutional amendment to the Attorney General for examination. If the Attorney General finds such law or constitutional amendment correct as to form, he shall so certify and such certification shall be printed immediately, under the text of the law or constitutional amendment. Such electors may also submit to the Attorney General a fair and impartial synopsis of such proposed law or amendment, and if such synopsis in the opinion of the Attorney General is a fair and truthful summary of the contents and purposes of such proposed law or amendment he shall so certify. Such synopsis together with the Attorney General's certification shall be printed in capital letters immediately following the notice heretofore provided. \* \* \*"

It is observed that under the provisions of this section, the Attorney General shall certify, first, as to the form of the proposed law, and, second, as to the synopsis appearing at the head of the petition, upon the filing of a written petition signed by one hundred or more qualified electors of the state. Presumably the Legislature saw fit to prevent the circulation of a petition bearing the certificates of the Attorney General until at least one hundred electors have sufficiently interested themselves in its circulation to submit the petition to the Attorney General as provided in this section. Under these circumstances, it is suggested that such petition signed by one hundred or more electors be submitted in accordance with these provisions of the new Election Law.

Notwithstanding the foregoing, addressing myself to the petition which you have submitted, I find that the petition purports to initiate a bill to repeal the Criminal Syndicalism Law of the State of Ohio, which bill seeks to repeal Sections 13421-23, 13421-24 and 13421-25, General Code. If this proposed bill seeks to repeal the Criminal Syndicalism Law of Ohio, there should also be included therein a provision for the repeal of Section 13421-26, General Code, which is a part of that law. If this last named section is not to be repealed, the title of the bill is erroneous.

The synopsis of the petition is as follows:

"The proposed repeal is initiated for the purpose of repealing Sections 13421-23, 13421-24, 13421-25 of the General Code of the State of Ohio, which sections define the term Criminal Syndicalism; provide for the penalty for advocating, teaching, editing, publishing or distributing; and which prohibits assemblage for teaching, etc. The bill which later became known as the Criminal Syndicalist Law, and which is set out in the Ohio General Code in the section above referred to was introduced in the House March 28, 1919, by Representative C. H. Freeman, of Ada, Hardin County. This was the period immediately after the World War. There was an insistent urge that a drastic law be passed quickly that would suppress expressions and opinions by agitators. This bill was presented to the Ohio Legislature without comment. The bill provided a fine of \$5,000.00, or a sentence of 10 years in the penitentiary, or both, for a violation of any of its provisions. On May 6, 1919, it was enrolled and signed in both houses. On May 7, it was signed by Governor Cox. Being an emergency measure, it was not subject to referendum and became operative at once. This law was not invoked until ten years later when three communists were prosecuted in Belmont County, and sentenced to the Ohio State Penitentiary."

I am of the view that the foregoing synopsis is not a fair and truthful summary of the contents and purposes of the proposed law, since there is included therein argument and reasons in favor of the bill. Section 4785-176, supra, provides that this summary shall be a fair and impartial synopsis of the proposed law. A synopsis which

contains argument either for or against a proposed law or reasons why it should or should not be enacted is not an impartial synopsis.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

1855.

ELECTION LAW—FILING OF PETITION SIGNED BY ONE PER CENT OF TOTAL VOTE FOR GOVERNOR AND CONTAINING TICKET OF CANDIDATES TO BE NOMINATED—SUCH CANDIDATES PLACED ON BALLOT UNDER INDEPENDENT COLUMN—METHOD FOR CREATION OF NEW PARTY.

**SYLLABUS:**

1. *When a petition is filed, signed by one per cent of the total vote for governor, as provided in Section 4785-91, General Code, containing a list or ticket of candidates for office to be nominated as therein provided, such petitioners are not entitled to have any party designation used at the head of the column on the ticket. The names of such candidates are required to be placed upon the ticket under the column designated "Independent."*

2. *The only method provided for the creation of a new party which is entitled to have its name placed upon the ticket is that method provided in Section 4785-61, which requires at least fifteen per cent of the total vote cast for Governor at the last preceding election.*

COLUMBUS, OHIO, May 12, 1930.

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

DEAR SIR:—Acknowledgment is made of the receipt of your recent communication, which reads:

"Section 4785-61 provides for the formation of political parties and the per cent of votes necessary for such party candidates for Governor to receive in order to continue as a political party in Ohio. It further provides that in order to form a political party, petitions containing signatures of electors equal to fifteen per cent of the total number of votes cast for Governor at the last general election must be filed ninety days before an election.

Section 91 provides for the nomination of candidates, in addition to nominations made at party primaries, by petitions signed by electors of a number equal to at least one per cent of the total vote cast for Governor at the last election.

Section 100 provides for the arrangement of ballots and provides that in addition to the arrangement of party ballots, 'the tickets or list of candidates nominated by nominating papers, their party names or designations, shall be printed at the right of and parallel with tickets of political parties.'

It further provides that where candidates have been nominated by petition and the group of petitioners has failed to indicate a designation, the word 'independent' shall be used at the head of the column wherein the names of all such candidates shall appear. In other words, Section 61 seems to provide as to how political parties shall be formed, although not mentioning anything about the candidates of such party.

Section 91 provides for the nomination by petition outside of party primaries and Section 100 seems to provide for such persons nominated by