

authorized to acquire real property for the purpose of donating the same by deed in fee simple to the State of Ohio for a site for the erection of an armory. Likewise, under the provisions of Section 5239, General Code, you are authorized to receive donations of land for this purpose, the requirement of the statute being that all land so acquired shall be deeded to the State of Ohio and shall become the property of the State.

An examination of the deed submitted by the City of Xenia shows that the same has been signed and otherwise properly executed and acknowledged by the mayor and auditor of said city pursuant to the authority granted to them by ordinance of the council of said city, and that said deed is in form sufficient to convey to the State of Ohio a good and indefeasible fee simple title to the above described premises.

Said abstract of title, together with the supplement thereto, and the deed of the City of Xenia above referred to are hereby approved.

I am herewith returning said abstract of title, supplemental abstract of title, deed and map of said property which were submitted to me in connection with my investigation of the title to the above described property.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1015.

CANDIDATE—RURAL BOARD OF EDUCATION—NOMINATING PETITION NOT SPECIFYING TERM SOUGHT INVALID—NECESSITY FOR ROTATING NAMES ON BALLOTS WHEN NUMBER OF CANDIDATES LESS THAN NUMBER TO BE ELECTED.

SYLLABUS:

1. *When both candidates for the long term and short term, of a rural board of education, are to be elected and naminating petitions of candidates fail to state the term sought, such petitions are insufficient, and the names of such candidates cannot appear on the ballot.*

2. *Where there are five members of a newly created school district to be elected, three for a long term and two for a short term, and only two candidates have filed nominating petitions for the long term and no candidates have filed for the short term, the board of elections must rotate the names of the two long term candidates on the ballot, and provide immediately beneath such names a third space. Two blank spaces must be provided so that the voters of the district may write in their choices for the short term.*

COLUMBUS, OHIO, October 10, 1929.

HON. D. H. PEOPLES, *Prosecuting Attorney, Pomeroy, Ohio.*

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

Five members of the board of education of the Olive-Orange Rural School District are to be elected at the November, 1929 election; three for the long term and two for the short term. Ten candidates filed nominating petitions for these offices, two of the ten, W. E. M. and C. F. B. specifying that they were seeking the long term, and the other eight candidates failing to specify which term they sought. The petitions of these eight candidates were sufficient in other respects.

The Meigs County Board of Elections is holding up the printing of the ballots in this instance, for advice from you as to the sufficiency of the nominating petitions of the eight candidates who failed to specify the term they sought.

Questions :

1. May the names of the eight candidates who failed to specify which term they sought, go on the ballot, and if so, how?
2. The Olive-Orange Rural School District being a newly created one in which the five present members who were recently appointed by the county board of education, are the electors of that district entitled to elect an entire new board at the November, 1929, election?
3. If the names of the two candidates who specified the long term shall go on the ballot, shall a blank space be provided for the writing in of a third name, and shall the names of the two candidates be rotated?
4. If none of the eight candidates who failed to specify the term sought, are entitled to a place on the ballot, shall two blank spaces be provided, so that the electors may write in their choice for the short term candidates?

In Opinions of the Attorney General for 1920, at page 452, it was held that where ballots used in a school election in a newly created district are not in conformity with the mandate contained in Section 4736, General Code, there is no valid election for members of the board of education. That opinion dealt with an election in a newly created rural district in which through error, ballots presented to the voters stated that two members were to be elected for four years and two members for three years and this was held by my predecessor to be a clear violation of the mandate appearing in Section 4736, General Code.

It appears from your question, that this is the first regular November election for members of the board of education in the Olive-Orange Rural School District since its creation by the county board of education and that the five present members thereof are serving through concurrent appointments.

If only the two candidates who specified the length of term were to be elected in the November 1929, election, it would not be ascertained which two of the five appointed members would yield their seats to them and, conversely, which three of the five appointed members would remain in office.

Section 5032, General Code, provides that names of candidates for members of the board of education shall be printed on one independent and separate ballot without any designation except for member of the board of education and the number of members to be elected.

Section 5033, General Code, provides that the names of candidates for board of education shall be rotated on the ballot.

Section 5025, General Code, provides :

“All ballots shall be printed on the best quality, number two, book paper, in black ink, and, with the exception of the heading which shall be in display, in brevier type, the name or designation of the office in lower case, and the name of the candidate thereof in capital letters, with a space of at least one-fifth of an inch following each name. The name of each candidate shall be printed in a space defined by ruled lines, and with a blank square on its left, enclosed by heavy, dark lines. If upon a ticket there is no candidate or candidates for a designated office, a blank space, equal to the space that would be occupied by such name or names if they were printed thereon with the blank spaces herein provided for, shall be left.”

Inasmuch as there are five designated offices to be filled in the instant case—three

long term memberships and two short term memberships, on the board of education—Section 5025, supra, may be applied.

Specifically answering your questions, it is my opinion :

First, the petitions of the eight candidates who neglected to state which term they sought, are insufficient and the names of such candidates cannot go on the ballot.

Second, the voters of the Olive-Orange Rural School District are entitled to vote for five candidates for board of education at the November, 1929, election.

Third, the names of the two candidates who specified "long terms" must go on the ballot in the spaces provided for the names of long term candidates, and must be rotated thereon ; a blank space must be provided immediately after these names.

Fourth, two blank spaces must be placed on the ballot in the spaces provided for candidates for the short term.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1016.

APPROVAL, BONDS OF STEUBENVILLE CITY SCHOOL DISTRICT, JEFFERSON COUNTY—\$80,000.00.

COLUMBUS, OHIO, October 10, 1929.

Industrial Commission of Ohio, Columbus, Ohio.

1017.

CANDIDATES—VILLAGE AND TOWNSHIP OFFICES—NECESSITY FOR ROTATION OF NAMES ON BALLOT DISCUSSED.

SYLLABUS:

1. Under the provisions of Section 5028, General Code, names of candidates for non-judicial township office and for non-judicial municipal office in municipalities of less than two thousand population, if nominated by petition, are placed on the ballot in alphabetical order, according to surname.

2. Under the provisions of Section 5054-4, General Code, the names of candidates for municipal judge and justice of the peace rotate on the ballot at the general election.

3. Under the provisions of Section 5033, General Code, the names of candidates for members of a board of education of a school district rotate on the ballot at the general election.

COLUMBUS, OHIO, October 10, 1929.

HON. J. F. KUHN, *Prosecuting Attorney, New Philadelphia, Ohio.*

DEAR SIR:—This acknowledges your communication of recent date, with which you enclose letter from the clerk of the Board of Deputy State Supervisors of Elections of Tuscarawas County, concerning which you request my opinion. The enclosure is as follows :