

4073.

APPROVAL, BONDS OF VILLAGE OF UNIVERSITY HEIGHTS, CUYA-HOGA COUNTY, OHIO—\$66,135.12.

COLUMBUS, OHIO, February 19, 1932.

Industrial Commission of Ohio, Columbus, Ohio.

4074.

STATE CENTRAL COMMITTEE OF A POLITICAL PARTY—STATUTE DOES NOT FORBID COMMITTEE DIVIDING COUNTY INTO DISTRICTS FOR PURPOSE OF ELECTING DELEGATES TO STATE CONVENTION—OPINION NO. 1262, VOLUME 1, PAGE 259, YEAR 1916, AFFIRMED.

SYLLABUS:

Opinion No. 1262, Vol. 1, Opinions of Attorney General for 1916, p. 259, affirmed.

COLUMBUS, OHIO, February 19, 1932.

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

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

“Section 4785-74 of the General Code provides that the state committee of each party shall determine the ratio of representation in the state convention of the respective party, but does not prescribe the manner in which such delegates may be allocated within each county.

It is generally conceded that were provision made for the election of delegates and alternates in many counties by wards and townships, it would fully serve the purpose of the law and would simplify the ballot. It would also serve as an economical measure in connection with the printing of the ballots and in the conduct of the election.

I will therefore appreciate your advice as to whether it is within my authority to rule as Secretary of State, that, in the Primary Election in Presidential years, delegates and alternates to the state convention may be elected at large in any county, or by townships and wards in a county containing a city or cities, and the state central committee may authorize the county executive committee of its respective party to exercise its discretion as to the manner in which the apportioned delegates and alternates of such county may be distributed.”

Section 4785-74, General Code, provides in so far as pertinent as follows:

“Candidates for presidential elector shall be nominated by delegate state conventions, the delegates to which shall be chosen at a primary elec-

tion which shall be held on the second Tuesday in May, 1932, and similarly every fourth year thereafter. The state committee of each political party shall determine the time and place for holding the state convention of such party and shall apportion the delegates and alternates throughout the state in proportion to its party vote for governor cast in the several counties at the last preceding general election. Each state committee shall also by resolution determine the ratio of representation in such state convention. In addition to nominating candidates for presidential elector such state convention shall formulate the state party platform for that year.

* * * * *

The provisions of the foregoing section are the same as those contained in Section 4953, prior to repeal by the 88th General Assembly, excepting as to the date of the primary election, being in May instead of in April as heretofore. Section 4953 was under consideration in an opinion of this office appearing in Opinions of the Attorney General for 1916, Vol. 1, p. 259, the syllabus of which is as follows:

“Section 4953, G. C., 103 O. L., 478, does not forbid the state central committee of a political party making provision for the districting of counties so that delegates and alternates to the state convention may be selected from such districts in such counties.”

This opinion in which I concur is dispositive of the question of the power of the state central committee to determine that delegates and alternates to the state convention may be elected either at large in any county or by districts within a county, whether such districts be wards in cities and townships outside of cities, or otherwise.

There may be a remaining question as to the power of the state central committee of the political parties to delegate to the county committees the authority to determine how the delegates to the state convention shall be elected within the respective counties. In the above cited opinion of this office, however, it is pointed out that the authority of the state committees is not in any way limited or restricted by the statute. The language of the opinion is as follows:

“There is nothing to show any purpose of the legislature to in any way limit or restrict the ordinary rights and authority of state committees, but, upon the contrary, the provisions under consideration are very general in their character and, as before observed, do not in any manner confer any new rights or authority upon said committees.

I am unable, therefore, to conclude that it was the intention of the legislature, in the enactment of these provisions, to in any manner impose any restriction upon the recognized jurisdiction and authority of state committees. Again, it is not by any means clear that the provision regarding apportionment, measured by its own language, has the effect of making a county the unit for the election of delegates. It is very difficult to determine from the language used, whether the vote of each county is not made the unit of apportionment rather than the unit of election. In other words, it is the vote of each county which determines the apportionment, and when such apportionment is made in accordance

with said vote, I am unable to see, from the provisions of the law, any limitation or restriction made upon the right of a committee to subdivide such apportionment within such county. The apportionment must be in proportion to the votes of each county, and when that requirement of the law is met, no further condition or restriction is imposed upon any action a state committee may determine to take in reference to said apportionment.

I am therefore of the opinion that the provisions of said section in regard to the apportionment provided for therein do not so limit the authority of a state committee as to prevent or prohibit it from prescribing and directing a reasonable division of said apportionment within a county. * * * * * Any subdivision of territory for the election of delegates must be made with due regard to the operation of the primary election law. Whether or not the division of territory is practicable for the conduct of the primary is a matter for the determination of the election authorities."

Concurring in this view with respect to the breadth of power vested in the state executive committees of the parties, it is my opinion that the authority in question may be delegated to the county committees.

While it might be contended that the subject matter of your inquiry is not one upon which the Secretary of State should properly make a ruling, in view of the fact that the practicability of the matter of the division of territory for the conduct of the election is one properly for the determination of the election authorities, it is my opinion that the ruling which you have submitted is one which is entirely proper for you to make as Chief Election Officer.

Respectfully,

GILBERT BETTMAN,

Attorney General.

4075.

APPROVAL, BONDS OF COAL GROVE VILLAGE SCHOOL DISTRICT,
LAWRENCE COUNTY, OHIO—\$10,000.00.

COLUMBUS, OHIO, February 19, 1932.

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

4076.

DEPOSITORY BOND—TOWNSHIP FUNDS—TOWNSHIP TRUSTEES
MAY ACCEPT SECURITIES ENUMERATED IN SECTIONS 4295 AND
2288-1 G. C. IN LIEU THEREOF.

SYLLABUS:

Township trustees may accept from depositories of township funds and depository banks may deposit in lieu of the bond required by Section 3324 of the General Code, the securities mentioned in Sections 4295 and 2288-1, General Code, therein imposed. (Opinions of the Attorney General, 1928, page 108, approved and followed.)