

2032.

ELECTION LAW—PLACARD PROMOTING NOMINATION OR ELECTION OF CANDIDATE—CONTAINING NAME AND ADDRESS OF CANDIDATE ONLY—VALID IF ISSUED BY CANDIDATE.

SYLLABUS:

Section 4785-198, General Code, does not require that a notice or placard designed to promote the nomination or election of a candidate must contain a statement as to who is responsible for its issuance, but only requires that the chairman or secretary of the organization issuing same or the name and address of some voter responsible therefor appear thereon. If, therefore, such notice contains the name and address of the candidate, and such notice has been issued by the candidate himself, the requirements of this section have been met.

COLUMBUS, OHIO, June 25, 1930.

HON. C. LUTHER SWAIM, Prosecuting Attorney, Wilmington, Ohio.

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

“Your opinion is kindly requested upon the following question under the Corrupt Practices Act in the new Election Code (G. C. Sec. 4785-198).

A candidate has cards printed, reading somewhat in the following forms:

Vote for
JOHN SMITH
Columbus, Ohio.
for
SHERIFF

Your support will be appreciated.

Republican Primary
August 12, 1930.

For Sheriff

X	JOHN SMITH
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Columbus, Ohio.

Republican Primary
August 12, 1930.

Your support will be appreciated.

These cards are circulated by the candidate and by his friends and workers.

Also the candidate has large signs printed, which reads somewhat as follows:

VOTE FOR
JOHN SMITH
Columbus, Ohio
for
SHERIFF
Republican Primary
August 12, 1930.

The signs are posted by the candidate and by his friends.

On none of these cards or signs, as the forms are given above, is there any complying with the requirements of G. C. Sec. 4785-198. 'Whoever * * * distributes * * * or causes to be distributed * * * a notice, placard, dodger, advertisement * * * which is designed to promote the nomination or election * * * of such candidate * * * 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, * * * .'

There has never been a ruling or a court decision on this question, but your ruling is requested as to whether or not there should not also appear on the cards and the signs, such wording as

Presented by John Smith, Columbus, Ohio,
or just the name and address:

John Smith, Columbus, Ohio."

Section 4785-198, General Code, provides:

"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 state that the candidate whose name and address appears on the card or sign has had such cards or signs printed, and I, therefore, assume that they are issued by the candidate himself. There is no requirement in the foregoing section that the notice, placard or advertisement referred to therein must contain a statement as to who issues such notice, placard or advertisement, it only being required that the chairman or secretary or the organization or voter having issued it cause his name and address to appear thereon. The card and sign copied in your letter contain the name and address of the candidate himself, and if issued by the candidate himself, I think that the requirements of this section have been met. If, however, this card or sign is issued by some other person or organization, there being no other name thereon than that of the candidate, the distribution thereof would be violative of the section.

The observance of the spirit of the statute would dictate that the name of the candidate in question appear as issuer, but the words do not so compel. This being a penal statute, would be construed strictly and the courts would undoubtedly hold that upon the facts which you present, the section has been complied with.

Specifically answering your question, it is my opinion, therefore, that Section 4785-198, General Code, does not require that a notice or placard designed to promote the nomination or election of a candidate must contain a statement as to who is responsible for its issuance, but only requires that the chairman or secretary of the organization issuing same or the name and address of some voter responsible therefor appear thereon. If, therefore, such notice contains the name and address of the candidate, and such notice has been issued by the candidate himself, the requirements of this section have been met.

Respectfully,

GILBERT BETTMAN,
Attorney General.