



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 23, 1976

ATTORNEY GENERAL OPINION NO. 76- 227

Mr. Robert J. Frederick
Kearny County Attorney
Box 984
Lakin, Kansas 67860

Re: Elections--Offenses--Campaign Advertising

Synopsis: Since the repeal in 1974 of former K.S.A. 25-1701, it is no longer unlawful for a candidate to distribute pencils, blotters, book matches and like items bearing campaign material to the electorate at large. It remains unlawful to offer any such item to another person in exchange for the vote or promise of a vote of such other person for or against any candidate.

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Dear Mr. Frederick:

You inquire whether the handing out of pens bearing the slogan "Vote for Coerber" falls within the prohibition of K.S.A. 1975 Supp. 25-2409, which defines the offense of election bribery:

"Election bribery is conferring, offering or agreeing to confer, or soliciting, accepting or agreeing to accept any benefit as consideration to or from any person either to vote or withhold his vote, or to vote for or against any candidate or question submitted at any public hearing."

This provision was enacted in 1974, *see* ch. 157, L. 1974, as part of an enactment revising and redefining many election offenses. As a

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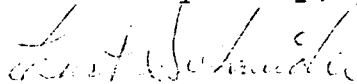
part of that revision, former K.S.A. 25-1701 was repealed. That statute formerly made it unlawful for

"[a]ny person . . . [to] lend or give any money or other valuable thing to any person to induce him to cast his vote either for or against any candidate for public office"

In a number of opinions issued by previous Attorneys General prior to the repeal of this statute, blotters, note paper pads, pencils, book matches, yardsticks and thimbles were each held to be valuable things which a candidate could not distribute to the public in order to induce any person to cast a vote for or against a candidate.

The offense of election bribery, as defined by K.S.A. 1975 Supp. 25-2409, is not so broadly defined. Under the 1974 statute, it is not unlawful to give a thing of value to another person *merely* to "induce" that person to vote for or against a candidate. It is unlawful, however, to give a thing of value to another person in exchange for the vote, or the promise of a vote, of that other person for or against a candidate. The mere distribution of blotters, pencils, book matches, yardsticks and like items bearing a candidate's campaign material to the electorate at large is no longer prohibited. It is unlawful for any person to confer or offer any "benefit," including any thing of value, to another person upon the condition of the recipient's vote or promise of a vote for or against a candidate. Similarly, it is unlawful for any person to accept or agree to accept any benefit, including any thing of value, in exchange for one's vote or promise thereof for or against a candidate is prohibited. So long as there is no agreement between two persons, however, that the thing of value is given in exchange for a vote, the distribution of such items as were formerly prohibited is no longer unlawful.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj