

election. The transcript disclosed, as stated in that opinion, that this notice had not been published during or throughout the continuance of four consecutive weeks prior to the election held on November 5, 1929, since the date of first publication appeared to be October 9, 1929.

There has been submitted to this office an affidavit of the publisher of the newspaper in which this notice of election was published reciting that although this newspaper, being a weekly newspaper, is dated as of Wednesday of each week, it is, in fact, published and placed in circulation the preceding Tuesday of each week. The affidavit recites that in accordance with this practice the publication dated October 9, 1929 and the publication of each succeeding Wednesday prior to the 1929 general election was, in fact, published and in circulation on Tuesday, October 8, 1929, and each succeeding Tuesday thereafter. Under these circumstances, it is evident that the requirements of Section 2293-21, General Code, have been met and that the notice of the election was, in fact, published in a newspaper of general circulation in the school district once a week for four consecutive weeks prior to the November 1929 election.

In view of the foregoing, I am of the opinion that bonds issued under the proceedings set forth in the transcript, as amended, which is an authenticated copy of the proceedings of the board of education and other officers of the Concord Township Rural School District, will, upon delivery, constitute a valid and binding obligation of said school district.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1626.

ELECTION LAW—INITIATIVE OR REFERENDUM PETITION—WHERE
RED NOTICE OF PENALTY FOR FALSE SIGNATURE PRINTED—
WHERE CAPITALIZED SYNOPSIS AND ATTORNEY GENERAL'S
CERTIFICATION PRINTED.

SYLLABUS:

1. *Notice of the penalty for falsely signing an initiative or referendum petition should, under the provisions of Section 4785-176, General Code, be printed in red immediately above the place for signatures upon each part of such petition, and such notice need be printed in no other place thereon.*

2. *Under this section, the synopsis of an amendment or law, together with the Attorney General's certification thereof, should be printed on each part of an initiative or referendum petition in capital letters.*

COLUMBUS, OHIO, March 17, 1930.

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

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

“The present section of the Ohio General Code 4785-176 relating to the initiative and referendum provides that,

‘Immediately above the place for signature on each part of such petition shall be printed in red the following warning:—

NOTICE: Whoever knowingly signs this petition when not a qualified voter in the county, or not a registered voter in a registration precinct; or signs a name other than his own: or signs the petition more than once, is liable to prosecution.'

Now, you will please note the latter part of the first paragraph of Section 176, which provides with reference to the synopsis relating to a proposed measure, together with the Attorney General's certification, that said synopsis,

'shall be printed in capital letters immediately following the notice heretofore provided.'

Referring to Section 5175-29e of the Ohio General Code, which was repealed by the last General Assembly and from which the part of Section 4785-176 seems to have been drawn, you will find this statement:-

'Such synopsis together with the Attorney General's certification may be printed in capital letters immediately following the notice provided for in Section 5175-29f.'

In drafting the new law, failure to carefully note the relationship of these sections is the evident cause of the confusion.

Now the question that we would like to present is as follows:

Will it be necessary to print the notice referred to immediately preceding the synopsis of a proposed measure upon the form proposed to be circulated as an initiative petition, or shall the said notice be printed immediately preceding the place for signatures on such petition. If it is printed in each place, will it be necessary that in each instance, it shall be printed in red. Again is it now mandatory that the synopsis of a proposed measure in an initiative and referendum petition must be printed in capital letters.

I might add that heretofore, all initiative and referendum petitions have been prepared with the notice referred to appearing on the first page of such petition, printed in red, and the synopsis of such measure printed in ordinary type, but not in capital letters."

For the sake of clarity, I deem it advisable to herein quote Section 4785-176, to which you refer. This section provides 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. At the top of each part of such petition shall be the following:

REFERENDUM (OR INITIATIVE) PETITION
INITIATING (OR REFERRING) CONSTITUTIONAL AMENDMENT (OR LAW)

TITLE -----

In capital letters of one line

SYNOPSIS OR AMENDMENT (OR LAW)

If only the synopsis is printed at the top of the petition then the complete text shall be printed at the end of each petition paper or part of the petition. If the complete text is printed at the top of the petition, then it shall be so indicated and need not be printed at the end of each petition paper.

Immediately above the place for signature on each part of such petition shall be printed in red the following warning:

'NOTICE. Whoever knowingly signs this petition when not a qualified voter in the county, or not a registered voter in a registration precinct; or signs a name other than his own; or signs the petition more than once, is liable to prosecution.'

At the bottom of each part of such petition shall be printed the following statement to which shall be appended the signature in person and address of the solicitor of such signatures:

'In consideration of my services in soliciting signatures to this petition I have received or expect to receive from ----- of -----'

(Address)

(Insert whatever of value has been or is expected to be received.)

State of Ohio }
County of ----- }

-----, being duly sworn deposes and says that he is the circulator of the foregoing petition paper containing ----- signatures, that the signatures appended hereto were made and appended in his presence and are the signatures of the persons whose names they purport to be.

Signed -----

Circulator

Address -----

Subscribed and sworn to before me this-----day of-----, 19-----

Notary Public"

A careful examination of this section discloses an evident repugnancy as to where the notice of the penalty for falsely signing the petition shall appear. The first paragraph of the section provides that the synopsis, together with the Attorney General's certification, shall follow "the notice heretofore provided". As a matter of fact, there is no notice "heretofore provided". The reference is evidently to the notice which is thereafter provided in the section. If effect is to be given to the first paragraph of the section, it is evident that the notice here under consideration will have to be inserted after the title and above the synopsis. If, on the other hand, effect is to be given to the latter portion of the section, wherein express provision is made for the notice, what it shall contain and the color of ink in which it shall be printed, it must appear immediately above the place for signatures.

It is a well established rule of statutory construction that in case a portion of a section contains two provisions which are irreconcilable and repugnant, the former provision being general and the latter detailed and explicit, effect will be given to the provision appearing last in the section. *State ex rel. Myers vs. Industrial Commission of Ohio*, 105 O. S. 103. I have, accordingly, little difficulty

in concluding that the notice referred to in Section 4785-176, General Code, should be printed in red immediately above the place for signatures upon each part of a referendum or initiative petition, and such notice need be printed in no other place thereon.

Addressing myself to your second question as to whether or not the synopsis must be printed in capital letters, the sentence of the first paragraph of the section containing the inconsistency hereinbefore discussed expressly provides that the synopsis as well as the Attorney General's certification shall be printed in capital letters. There is no ambiguity or inconsistency as to this portion of the sentence, and it is, therefore, my opinion that the synopsis of an amendment or law, together with the Attorney General's certification thereof, should be printed on each part of a referendum or initiative petition in capital letters, as provided by Section 4785-176, General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1627.

ELECTION LAW—RIGHT OF CANDIDATE BY METHOD OF DECLARATION TO SIGN AND CIRCULATE OWN PETITION—EXECUTING OATHS TO SIGNATURES AUTHORIZED.

SYLLABUS:

A person desiring to become a party candidate by the method of declaration, may sign the petition provided in Section 4785-72, General Code, circulate such petition personally, and execute the oath provided at the end of the signatures thereto.

COLUMBUS, OHIO, March 18, 1930.

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

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

“Sections 4785-70, 4785-71 and 4785-72 of the General Code, provide for candidacy by declaration and the form for declaration of candidacy and the petition for candidate.

Under Section 72 it will be noticed that the form requires that an oath be made to the petition by one of the signers to the petition for the candidate. The question has now arisen as to whether or not the candidate himself can be a signer of his own petition and is qualified to take the oath as required under Section 72 as a signer of said petition.

The request has come as the result of the somewhat general practice of county candidates passing their own petitions to obtain signers.

We will appreciate very much your opinion on this question as promptly as possible as the question is coming to us from every section of the State almost daily, where county candidates are preparing to qualify for the primary.

I am enclosing a copy of the declaration of candidacy for county office so that you may see the form which has been prescribed by the Secretary of State in compliance with the provisions of 4785-70, -71, and -72.”