

order of court, the court in such case, as in other cases, speaks only through its journal by means of an entry approved by the court for the purpose. It is probable that in most cases of this kind such entry is prepared by a party to the action or by his attorney. Nevertheless, such entry, when approved by the court, becomes the act of the court; and if by such entry a particular newspaper is designated in which such notice of sale is to be published, such designation thus made in the entry, is the act of the court, and not of such party or attorney, when the court approves such entry.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3461.

MUNICIPALITY—NEWLY INCORPORATED—SPECIAL ELECTION FOR
FIRST ELECTION OF OFFICERS—NOTICE OF SUCH SPECIAL
ELECTION TO BE GIVEN IN ACCORDANCE WITH SECTION 4785-5,
GENERAL CODE.

SYLLABUS:

Notice of a special election of officers in a newly incorporated municipality should be published as provided in Section 4785-5, General Code.

COLUMBUS, OHIO, JULY 28, 1931.

HON. R. H. BOSTWICK, *Prosecuting Attorney, Chardon, Ohio.*

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

“A village has been organized at Geauga Lake, Ohio, under Sections 3520, 3521, 3522, 3523, 3524 and 3525. The village now desires to hold a special election of officers, which I understand from your letter of April 17, 1931, can be held under Section 3536 of Amended Senate Bill No. 16, passed February 23, 1931.

“I am unable to make up my mind as to how notice shall be given of this special election. Will you, therefore, give me your opinion of how notice shall be given of such special election to the electors, as we are very anxious to get this village functioning at the earliest possible date.”

Section 3536, General Code, prior to repeal by the 88th General Assembly, provided that the first election of officers of a newly incorporated municipality was to be held at the first municipal election after its creation. The section further provided that notice of said election should be published in three or more public places within the corporation at least ten days before the election.

The 89th General Assembly apparently recognizing that no provisions had been left in the General Code for the first election of such officers, reenacted this section in a modified form in Amended Senate Bill No. 16. In its present form, Section 3536, General Code, reads as follows:

“The first election of officers for such corporation may be a special election held at any time not exceeding six months after the incorporation

at a time to be fixed by the agent of the petitioners. Unless such special election is held, the first election of officers for such corporation shall be at the first municipal election after its creation."

The absence of any special provision as to notice of the special election authorized in the foregoing section, compels a reference to the general provisions contained in the election laws. Section 4785-5, General Code, is in my opinion, therefore, controlling. It provides:

"At least ten days before the time for holding an election the board shall give public notice by a proclamation, posted in a conspicuous place in the court house and city hall; or by one insertion in a newspaper published in the county; and if no newspaper is published in such county, then in a newspaper of general circulation therein. Such newspaper notice shall not exceed six inches in length of double column width."

Specifically answering your question, it is my opinion that notice of a special election of officers in a newly incorporated municipality should be published as provided in Section 4785-5, General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3462.

OFFICES INCOMPATIBLE—DIRECTOR OF EDUCATION, ASSISTANT DIRECTOR AND CHIEFS OF DIVISIONS WITHIN STATE EDUCATION DEPARTMENT MAY NOT TEACH SIMULTANEOUSLY AT A UNIVERSITY—WHEN EMPLOYEES OF EDUCATION DEPARTMENT MAY TEACH.

SYLLABUS:

The director of education, the assistant director of education and the chiefs of divisions within the Department of Education are not permitted by law to be employed as teachers at the Ohio State University or any college, or hold any other office or position of employment while serving as such director, assistant or chief of a division within the Department of Education. All other employes within said Department of Education may legally be employed as teachers at the Ohio State University or any other college, providing their schedule be so arranged, with the approval of the head of the Department of Education, that they render at least eight hours service per day as an employe of the Department of Education.

COLUMBUS, OHIO, July 29, 1931.

DR. GEORGE W. RIGHTMIRE, *President, The Ohio State University, Columbus, Ohio.*

MY DEAR DR. RIGHTMIRE:—This will acknowledge receipt of your request for my opinion with reference to the following:

"Two persons regularly employed in the State Department of Education have been teaching in the summer school at this University and have