

register within the proposed residence district, and not in the more restricted meaning of one who is not only qualified to register but actually has registered."

It would therefore appear that one is not qualified to vote in a village until he has resided therein for a period of twenty days. While, as hereinbefore indicated, it has been held that it is not necessary that one be registered in a precinct wherein registration is required in order to make him an elector within the meaning of the constitution and statutes, it is believed to be imperative that he must be entitled to registration in such cases in order to become an elector. In the case you mentioned, the party under consideration was not entitled to vote at the time of his appointment for the reason that he had not resided in the municipality twenty days. Of course, if he continues to reside within such municipality for the period of twenty days it is doubtful what his status would be, for the reason that the courts have held that technical objections with reference to an officer's qualifications will not be enforced when such objections are removed after his taking office. However this may be, it must be stated as a proposition of law that a party who has resided in a village for but one day cannot be said to be an elector of that village.

In reference to the second question which your inquiry presents, relative to an ordinance passed after an appointment requiring the approval and confirmation by council of the appointment of said officer, it is evident that such a proceeding would be retroactive if applied to past transactions. It is a fundamental principle of law that acts of such character will be given a prospective operation rather than retrospective, and such acts would not apply to past performances.

Based upon the foregoing citations and discussions and in specific answer to your inquiries, it is my opinion that:

1. A married man who became a resident of a village on February 14, 1930, could not the next day be legally appointed to the position of fire chief of said village, for the reason that he was not an elector within the provision of Section 4389 of the General Code and its related sections.

2. When a village council passes an ordinance requiring the appointment of the fire chief to be approved and confirmed by council such provision would have no effect upon appointments properly made prior to the effective date of said act.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1763.

ELECTION LAW—SIGNATURES TO PETITION OF CANDIDATE FOR AN OFFICE IN DISTRICT LARGER THAN COUNTY AND LESS THAN STATE MAY BE SECURED IN ANY ONE COUNTY WITHIN SUCH DISTRICT—OPINION No. 1340, 1929, APPROVED.

SYLLABUS:

Signatures to a petition accompanying a declaration of candidacy for an office to be voted for by the electors of a district larger than a county and less than the state may be secured in any one county within such district, since there is no statutory provision as to the territorial distribution of such petitioners.

COLUMBUS, OHIO, April 11, 1930.

HON. GEORGE C. MCKELVEY, *Prosecuting Attorney, St. Clairsville, Ohio.*

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

“This office desires your opinion as to the interpretation of Section 4785-70 of the General Code of Ohio and more particularly that part of the section which has to do with county candidates.

Picking out that part of the section on which we wish to have your opinion the same reads as follows:

‘Every person desiring to become a party candidate for a county office by the method of declaration shall not later than 6:30 P. M. on the sixtieth day before the date of the primary at which such nomination is to be made, file a declaration of candidacy accompanied by a petition signed by at least one hundred electors of his party, or five per cent of the electors who voted for the party candidate for governor at the next preceding regular state election.’

In this county five per cent would be something over eight hundred and fifty signatures. The question is whether or not the word ‘or’ as it appears between the words ‘party’ and ‘five’ means ‘in the alternate’ and perhaps to be more specific the real question would be whether or not the county candidate in this county who secured the signature of one hundred electors of his party would be complying with the law.

Second question: In the case of a petition declaring one’s candidacy for an office in a district larger than the county and less than the State, can the five per cent required by this section of the electors who voted for the party candidate for governor in the next preceding regular state election be secured in one county, or must they be divided over the district, and if so in what proportion?”

The first question which you submit is answered by Opinion No. 1340, rendered under date of December 26, 1929, to the Secretary of State. I enclose a copy of this opinion, the syllabus of which is as follows:

“Under Section 4785-70, General Code, as amended by the 88th General Assembly, a person desiring to become a party candidate by the method of declaration, for an office to be voted for by the electors of a county or district larger than a county and less than the state, must file a declaration of candidacy as therein provided, accompanied by a petition signed by either one hundred electors of his party, or five per cent of the electors who voted for the party candidate for governor at the next preceding regular state election.”

Section 4785-70, General Code, insofar as is pertinent to your second question, provides as follows:

“Each person desiring to become a party candidate by the method of declaration shall, not later than 6:30 p. m. of the sixtieth day before the date of the primary at which such nominations are to be made, file a declaration of candidacy, accompanied by a petition, signed by at least one thousand electors of his party, from at least one-third of the counties of the state in the case of an office to be voted for by the electors of the entire state; and at least one hundred electors of his party, or five per cent of the electors who voted for the party candidate for governor at the next preceding regular state election,

in the case of an office in a county or district, larger than a county and less than the state; and at least five electors of his party in all subdivisions less than a county; and shall pay the fee required by law. * * *."

The balance of the section relates to where the declaration of candidacy shall be filed.

A careful examination of this section discloses that although there is a provision as to how the signers of a petition accompanying a declaration of candidacy must be distributed territorially in case the office sought is to be voted for by the electors of the entire state, there is no requirement as to territorial distribution of signers of petitions accompanying declarations of candidacy for an office to be voted for by a county or district larger than a county and less than the state, nor is there such provision in case the office is to be voted for by a subdivision less than a county, nor do I find such a provision elsewhere in the General Code. I am of the view that the rule of *expressio unius est exclusio alterius* is applicable to your question. It may be perhaps advisable for a candidate seeking an office to be voted for by a district consisting of more than one county to secure signatures to his petition in each county in the district, and the same observation may be made as to the various wards of a city when a municipal office is sought, but the Legislature has apparently prescribed no requirement as to this matter.

Specifically answering your second question, therefore, it is my opinion that signatures to a petition accompanying a declaration of candidacy for an office to be voted for by the electors of a district larger than a county and less than the state may be secured in any one county within such district, since there is no statutory provision as to the territorial distribution of such petitioners.

Respectfully,

GILBERT BETTMAN,

Attorney General.

1764.

COUNTY COMMISSIONERS—CARRYING INSURANCE ON BUILDINGS
OF AGRICULTURAL SOCIETY—PROCEEDS PAYABLE TO SUCH
SOCIETY WHEN LOSS OCCURS.

SYLLABUS:

When county commissioners insure the buildings on the grounds of a county agricultural society by authority of Section 9899, General Code, and a loss occurs, the proceeds of the insurance collected on account of said loss, should be paid directly to the agricultural society for the benefit of whom such insurance had been effected.

COLUMBUS, OHIO, April 11, 1930.

HON. L. M. SOLIDAY, *Prosecuting Attorney, Zanesville, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

"In about the year of 1915 the Muskingum County Agricultural Society erected on the County Fair Grounds a building at the expense of approximately Three Thousand (\$3,000) Dollars which was paid for by the society. Insurance on this building has been carried by the County Commissioners under and by virtue of Section 9899 of the General Code of Ohio, and sometime last fall this building was totally destroyed by fire. The face of the