

4840, 4941, 4944, 4948, 4967 and 4980, using the terms "regular," "general or November election," special election" and "primary election." At page 13 the court says:

"A careful consideration of all the constitutional provisions and statutes cited above compel the court to the opinion that the term 'general election' was intended to apply only to the elections held on the first Tuesday after the first Monday of November both in the even and odd numbered years, and that all other elections would be special elections except the 'primary elections' which are another class and otherwise provided for. A general election is one held throughout the state at regularly recurring intervals for the purpose of electing public officers and possibly at the same time voting upon such public questions as might be then legally submitted, while a *special election is one held at some other time to vote upon public questions or to elect officers to fill vacancies.*"

The court's opinion is that no election is a special election which occurs at the time of a general election. The opinion also defines primary elections by saying that they are another class and otherwise provided for.

It is to be observed also that, as often happens, questions are proposed to be voted upon at both general and primary elections, in the interest of economy and for other good and sufficient reasons, that could be voted upon on another day at a special election properly called according to law.

Your second question therefore is answered by saying that a special election is one called by a proper board or officer for any purpose specifically provided for by law, not within the meaning of general election, and may occur at any time except on a general election day.

Respectfully,

JOHN G. PRICE,

Attorney-General.

1259.

MUNICIPAL CORPORATION—CITY AUDITOR EMPLOYED AS CASHIER IN WATER WORKS OR ELECTRIC LIGHT DEPARTMENT—COMPENSATION MAY BE PAID FROM FUNDS OF SAID DEPARTMENT—APPLICABLE ONLY TO CITIES UNDER CITY MANAGER PLAN.

The compensation of a city auditor who is employed as cashier in the water works or electric light department, may be paid from the funds of the department in which he is employed, such compensation being separate from and in addition to his salary as city auditor. This opinion applies only to cities operating under the city manager plan.

COLUMBUS, OHIO, May 20, 1920.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of the receipt of your recent request for the opinion of this department as follows:

"Referring you to house bill No. 691, passed by the recent general assembly, and to such portions amending the form of government that may be adopted in home rule cities and specifically to section 3515-24, while section 3515-28 which follows in the act provides that the city manager may receive a portion of his salary from public utility, there is no further provision as to the compensation of any one other than the city manager.

Question: When the city auditor is acting in the various positions as set forth in section 3515-24 G. C., may a portion of his compensation be paid from the water works and electric light funds?"

Section 3515-24 G. C., as amended in house bill 691 (108 O. L., Part 2, p. —), is as follows:

"The council shall appoint a clerk, treasurer, auditor and solicitor; but provisions may be made by ordinance for the performance of the duties of clerk and treasurer, or clerk and auditor, by the same person. Council may provide that the treasurer or auditor may be employed as cashier in the electric light or water department, or both, of such city, and as clerk to the city manager and as clerk to the civil service commission of such municipality."

House bill 691 amends corresponding sections in an act passed in 103 O. L., 767, relating to the plans of government for municipalities.

It is noted that this section provides that the treasurer may be "employed as cashier in the electric light or water department * * * and as clerk to the city manager and as clerk to the civil service commission."

This sentence removes a pre-existing impediment. It makes no new or other provision as to payment for services in these new capacities or employments.

The effect of section 3515-24 is that it removes any inhibitions against the auditor being employed in the designated positions. Who shall employ him? There has been no change in this respect nor has there been any change in the funds from which the employes of those different departments would be paid. The compensation for the person employed under this section would not be a part of his salary as the treasurer or auditor of the municipality.

The theory of the public utilities is that they shall be self-sustaining and no reason is apparent why the compensation for the employment permitted by this section should not be paid as other employes in the same department are paid from the utility fund.

While section 3515-28 is cited in your letter, it is believed that this relating particularly to the salary of the city manager, as such, has no application to the matter of section 3515-24.

It may be added that the application of this opinion is restricted to cities operating under the city manager plan of government referred to in the act, 103 O. L., 767.

Respectfully,

JOHN G. PRICE,

Attorney-General.