

OPINION NO. 69-053**Syllabus:**

The County Recorder may index a Notice of Cancellation of Articles of Incorporation in a fashion to be decided by him in the exercise of sound discretion, and the instrument may be recorded in any existing record or in one established by the County Recorder for the express purpose of recording the Notice of Cancellation of Articles of Incorporation.

To: Rudolph E. Battista, Carroll County Pros. Atty., Carrollton, Ohio
By: Paul W. Brown, Attorney General, May 28, 1969

I have before me your request for my opinion on the following questions:

"1. When the County Recorder receives, pursuant to Section 5733.20, Ohio Revised Code, a Notice of Cancellation of Articles of Incorporation by the Secretary of State properly certified by him, is this a recordable instrument, or one entitled to record in the County Recorder's Office?

"2. If this is a recordable instrument how should this instrument be indexed and in what record should the same be recorded?"

Section 317.06, Revised Code, provides that the County Recorder shall keep five separate sets of records: (A) a record of deeds; (B) a record of mortgages; (C) a record of powers of attorney; (D) a record of plats, and (E) a record of leases. This Section also provides that certain instruments shall be recorded therein. The instrument in question is not mentioned.

Provision is also made in various sections of the Code for

recording certain instruments. With respect to the corporation law, for example, Section 1701.80, Revised Code, pertaining to the adoption of a merger agreement, provides that a copy of the certificate evidencing said merger agreement "may be filed for record in the office of the county recorder of any county in this state, * * *. Such copy shall be recorded in the records of deeds."

The statute in question, however, i.e., Section 5733.20, Revised Code, does not provide for either mandatory or permissive recording of a Notice of Cancellation of Articles of Incorporation, but states merely that the Notice shall be filed. The document in question, therefore, is a proper one for permanent record in the sense that that term is used in ordinary usage as meaning a written memorandum of an official action which memorandum is maintained as evidence of the action taken. The document in question is such a "record" and is entitled to be treated as such by the County Recorder quite apart from its status as constructive notice vel non.

Your second question relating to how should this instrument be indexed and in what record should the same be recorded is not answered by a reading of the statutes or decisional law of this state. There are no restrictions placed upon the County Recorder with respect to the filing of a document such as the one in question.

Accordingly, it is my opinion and you are hereby advised that the County Recorder may index a Notice of Cancellation of Articles of Incorporation in a fashion to be decided by him in the exercise of sound discretion, and the instrument may be recorded in any existing record or in one established by the County Recorder for the express purpose of recording the Notice of Cancellation of Articles of Incorporation.