

1666.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE RADIO ELECTRIC COMPANY, OF WASHINGTON, C. H., OHIO, FOR ELECTRIC WIRING IN SCHOOL HOUSE WITH GYMNASIUM AND SWIMMING POOL AT OHIO SOLDIERS' AND SAILORS' ORPHANS' HOME, XENIA, OHIO, AT COST OF \$2,277.00.—SURETY BOND EXECUTED BY THE AMERICAN GUARANTY COMPANY.

COLUMBUS, OHIO, August 5, 1924.

HON. L. A. BOULAY, *Director, Department of Highways and Public Works, Columbus, Ohio.*

Dear Sir:—

You have submitted for my approval a contract between the State of Ohio, acting by the Department of Highways and Public Works, and the Radio Electric Company, of Washington C. H., Ohio. This contract covers the electric wiring in school house with gymnasium and swimming pool at the Ohio Soldiers' and Sailors' Orphans' Home, Xenia, Ohio, and calls for an expenditure of \$2,277.00.

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. There has further been submitted a contract bond upon which the American Guaranty Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,

C. C. CRABBE,

*Attorney General.*

1667.

AUTHORITY OF CITY, VILLAGE OR COUNTY TO MAINTAIN AND OPERATE PLAY GROUNDS.

**SYLLABUS:**

*A city cannot pay part of the expense of a playground to a group of private citizens equipping such place, in the form of a donation. A city may not pay the salary of a supervisor unless the supervision, operation and maintenance of the playground is under the jurisdiction of the local authorities.*

COLUMBUS, OHIO, August 6, 1924.

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

Gentlemen:—

I am in receipt of your communication as follows:

"Amended Senate Bill No. 61, passed by the 84th General Assembly, 109 O. L., 609, authorizes cities, villages or counties to acquire, maintain and operate play grounds, etc. Section 2 of the act, (section 4065-2) provides that:

"The authority to supervise and maintain playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers, may be vested in any existing body or board, or in a recreation board, as the city or village council or the county commissioners shall determine. The local authorities of any such city, village or county, may equip, operate and maintain, the playgrounds, playfields, gymnasiums, swimming pools, public baths or indoor recreation centers, as authorized by this act. Such local authorities may, for the purpose of carrying out the provisions of this act, employ play leaders, recreation directors, supervisors, superintendents or any other officers or employes as they deem proper."

"Property owned by the board of education of the City of Dover has been equipped as a public play ground by a group of citizens at their own expense. The City of Dover desires to pay a portion of the operating expenses in the form of an annual donation to such group of citizens.

"*Question 1.* Does the above mentioned or any other section of the General Code permit a city to make a donation for this purpose?"

"*Question 2.* If a donation is not permissible, may the city legally provide for and pay the salary of a supervisor without creating a recreation board and without disturbing the existing management and arrangement?"

Section 4065-1, General Code, found in 109 O. L., p. 609, provides:

"That the council or other legislative authority of any city, village, or the county commissioners of any county, may designate and set apart for use as playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers, any lands or buildings owned by any such city, village or county, and not dedicated or devoted to other public use. Such city, village or county may, in such manner as may be authorized, or provided by law for the acquisition of land or buildings for public purposes in such city, village or county, acquire lands or buildings therein for use as playgrounds, playfields, gymnasiums, public baths, swimming pools or indoor recreation centers."

By the above section, it is provided that the council, etc., may set apart for playgrounds any property owned by a municipality. Such council may acquire property for the same purpose. There is no provision in this act for a school district to acquire or jointly acquire land for such purposes.

Section 7620, General Code of Ohio, however, authorizes school boards to acquire by purchase or lease real estate for playgrounds.

Section 4065-2 provides:

"The authority to supervise and maintain playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers may be vested in any existing body or board, or in a recreation board, as the city or village council or the county commissioners shall determine. The local authorities of any such city, village or county, may equip, operate and maintain playgrounds, playfields, gymnasiums, swimming pools, public baths or indoor recreation centers, as authorized by this act. Such local authorities may, for the purpose of carrying out the provisions of this act, employ play leaders, recreation directors, supervisors, superintendents or any other officers or employes as they may deem proper."

This section authorizes the council to vest authority to supervise and maintain playgrounds in any existing board or body or a recreation board. This section further authorizes the local authorities to equip, operate and maintain playgrounds, as authorized by this act. They may employ any officers or employes for such purposes as they deem proper. This section further says that "such local authorities" may equip, operate and maintain such playground. This would indicate that by "any existing body or board" mentioned, it was meant any official body or board of the subdivision. Section 4065-5 provides:

"Any two or more cities or villages, or any city or village, or any city or village and county, may jointly acquire property for and operate and maintain any playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers. Any school district shall have power to join with any city, village or county, in equipping, operating and maintaining playgrounds, playfields, gymnasiums, public baths, swimming pools, and indoor recreation centers, and may appropriate money therefor."

This section permits one or more cities or villages, or any city or village and county, to jointly acquire property for, or operate and maintain playgrounds. This section also provides that any school district may join with any city, village or county, in equipping, operating and maintaining playgrounds.

In jointly operating a playground under this provision, it is believed that such operation must be as authorized by this act, that is, it must be under the supervision of the local authorities of the joint subdivision.

Your letter would infer that the supervision and maintenance of the playground in question is placed in the persons who have equipped same at their expense. In view of the provisions of the whole act, it is believed that it would be inconsistent with said act to permit persons over whom the local authorities have no jurisdiction to supervise the operation and to control the expenditure of the funds of the subdivision.

It is therefore my opinion that the city may not pay part of the operating expense of the playground to a group of citizens equipping such place in the form of a donation. It is my opinion also that the city may not pay the salary of a supervisor unless the supervision, operation and maintenance of the playground is under the jurisdiction of the local authorities.

Respectfully,

C. C. CRABBE,

*Attorney General.*

1668.

CORONER—FEES PRESCRIBED BY SECTION 2856-3 G. C. ARE APPLICABLE TO CORONERS OF ALL COUNTIES—WHEN AUTOPSY MAY BE MADE—SECTION 2495 G. C. CONSTRUED.

**SYLLABUS:**

1. *The fees prescribed by section 2856-3 G. C. are applicable to coroners of all counties.*
2. *An autopsy may not legally be made without authorization by the prosecuting attorney of the county wherein a dead body is found.*