

branches in junior high schools, teacher's high school certificates valid to teach all branches in recognized high schools and junior high schools and teachers' special certificates valid in schools of all grades but only for the branches of study named therein.

Section 7829-1, General Code, provides that all original high school certificates issued after July 1, 1924, by any certifying authority, and all renewals of such certificates thereafter issued, shall be specific for teaching only the branches named therein.

From the foregoing, it appears that before a person may be employed to teach in an elementary school he must have an elementary school certificate, certifying as to his qualifications to teach all the subjects named in Section 7830, General Code, and such other subjects as are prescribed to be taught in elementary schools, or a special certificate to teach the particular subjects in an elementary school which he is employed to teach.

It appears that in the case submitted by your inquiry, the person mentioned had neither a "teacher's elementary certificate" nor a "teacher's high school certificate", but a special certificate to teach two subjects in a high school. This certificate to teach those special subjects would permit his employment to teach those subjects in either a high school or an elementary school and if he held a certificate to teach two subjects, such as United States history, and English grammar, in a high school he could lawfully be employed to teach those same subjects in an elementary school without having been granted what is generally spoken of as a "teacher's elementary school certificate", but the mere fact that he held a certificate entitling him to be employed in a high school to teach two subjects would not qualify him for employment as a teacher of an elementary school other than for the teaching of those two particular subjects.

Respectfully,

GILBERT BETTMAN,

Attorney General.

1755.

ELECTION LAW—HOW BALLOTS PREPARED FOR ELECTING TWO COMMON PLEAS JUDGES TO ASSUME OFFICE AT A DIFFERENT TIME AND A DOMESTIC RELATIONS JUDGE—CANDIDATES MUST DESIGNATE JUDGESHIP SOUGHT.

SYLLABUS:

1. *In the event three judges of the Court of Common Pleas are to be elected at the same election, one to fill a term of office commencing on the first day of the next January, one to fill a term of office commencing on the 9th day of the next February, and one to fill a term of office commencing on the first day of the next January as judge of such court, Division of Domestic Relations, candidates for the different terms of office and for the Division of Domestic Relations should designate the term or division sought.*

2. *The ballots to be used at such election should be arranged as provided in Section 4785-101, General Code, with a separate designation as to each, as follows:—Judge of the Court of Common Pleas, Term commencing January 1, 1931; Judge of the Court of Common Pleas, Term commencing February 9, 1931; Judge of the Court of Common Pleas, Division of Domestic Relations.*

COLUMBUS, OHIO, April 10, 1930.

HON. R. L. THOMAS, *Prosecuting Attorney, Youngstown, Ohio.*

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

“Section 1532-5a, effective July 28, 1929, provides for an additional common pleas judge in Mahoning County, Ohio, said judge to be elected every six years, beginning in 1930, and to hold office for a term of six years commencing on the first day of January, 1931, next after his election.

In 1918 the Legislature made provisions for a common pleas judge in and for Mahoning County, whose term was to begin February 9th, 1919. The term of this additional judge expires February 9th, 1931, so that provision must be made for the election of a successor.

Section 1532-4 of the General Code provides for an additional common pleas judge in Mahoning County, in the Division of Domestic Relations. The term of this additional judge expires January 1st, 1931, and provision must be made in the next election for a successor.

Under the above circumstances, we desire to have your opinion on the following questions:

1. How shall the ballots be prepared for the submission of the question of electing the three above common pleas judges?

2. Should candidates for the above named offices of common pleas judgeship designate the particular judgeship they are seeking?”

I do not find that the Legislature in 1918 made provisions for a common pleas judge in Mahoning County whose term was to begin in February. I assume that the second paragraph of your letter has reference to the term of the common pleas judgeship provided in the fourth section of the Schedule of the Constitution. My opinion shall be rendered upon this assumption, since there is to be an election this year to fill this term originally established as commencing on the second Monday in February, 1851.

Section 4785-99, General Code, provides:

“At the general elections in each year there shall be separate ballots upon which shall be printed the names of all candidates for the offices to be filled and the issues to be voted upon at such election as follows:

a. The party column ballot upon which shall be printed the names of the candidates for president and vice president of the United States, and the names of the candidates of every party and group of petitioners having candidates for offices for which nominations have been made at party primaries or by petition; including national, state, district, county, township and municipal offices; except such offices for which there shall be no party designation as provided by law.

b. The non-partisan ballot on which shall be printed the names of candidates for election to judicial offices, to boards of education, and to such township and municipal offices as are required to be without party designation.

3. The issues ballot on which shall be printed all issues to be submitted to the voters of the state and of the political subdivisions or taxing units thereof.

Each of said kinds of ballots shall be deposited in separate ballot boxes at the election, and shall be counted, tallied, and the returns thereof made thereon separately.”

The provision in paragraph "b" of this section that the names of candidates for election to judicial offices shall be printed on the non-partisan ballot is contained not only in this section, but in Section 4785-102, General Code, which provides in part:

"The names of all candidates for election to any judicial office shall be placed upon the non-partisan ballot, in order of rank of the office without any party designation of any kind, under the title of the office, and shall be rotated as in the case of names on the primary ballot. * * * ."

Section 4785-101, General Code, provides for the arrangement of non-partisan ballots. It is as follows:

"On the non-partisan ballots the names of candidates shall be arranged in a group under the title of the office in the same manner as the names of candidates are arranged on the party primary ballot. If there are candidates for the same office, but for different terms, the term for which each is nominated shall be printed as a part of the title of the office. The names of candidates for each office on such ballots, including judicial and school board candidates, shall be printed in rotation as in the case of names of candidates on the party primary ballots. At the bottom of each group as many separate spaces as there are candidates to be elected shall be left blank, in which the voter may write the names of any candidates not on the ballot, but not more than the number to be elected. The order in which the list of offices on the non-partisan ballot shall appear shall be determined by the Secretary of State, and shall be transmitted to the boards of election in the several counties in his printed instructions to such boards."

I am of the view that this section is dispositive of your first question. You present a situation whereby there is more than one candidate for the same office, the office of judge of the Common Pleas Court, but for different terms. The section provides that under such circumstances "the term for which each (candidate) is nominated shall be printed as a part of the title of the office." It is evident that the judicial ballot should contain a separate designation as to the candidates for the office of judge of the Court of Common Pleas for the term commencing January 1, 1931, and a separate designation as to the candidates for the office of judge of the Court of Common Pleas for the term commencing February 9, 1931. The candidates for the office of judge of the Court of Common Pleas, division of domestic relations, must, of course, be so designated under Section 1532-4, General Code, which provides that such judge "shall be elected and designated as judge of the Court of Common Pleas, division of domestic relations."

You next inquire whether or not candidates for the different terms should designate the terms which they are seeking. Section 4785-71, General Code, provides the form of declaration of candidacy to be used by persons desiring to become a party candidate by the method of declaration at a primary election. In the form provided, the candidate must declare himself "a candidate for nomination to the office of _____ to be made at the primary election to be held on the _____ day of _____ 19____". The form contains no provisions for designating the term of the office sought, but since Section 4785-101, supra, expressly requires such designation, it is obvious that the candidate must in the first instance ascertain the term for which he is a candidate under such circumstances and so designate it upon his declaration of candidacy.

Specifically answering your questions, it is my opinion that:

1. In the event three judges of the Court of Common Pleas are to be elected

at the same election, one to fill a term of office commencing on the first day of the next January, one to fill a term of office commencing on the 9th day of the next February, and one to fill a term of office commencing on the first day of the next January as judge of such court, Division of Domestic Relations, candidates for the different terms of office and for the Division of Domestic Relations should designate the term or division sought.

2. The ballots to be used at such election should be arranged as provided in Section 4785-101, General Code, with a separate designation as to each, as follows:— Judge of the Court of Common Pleas, Term commencing January 1, 1931; Judge of the Court of Common Pleas, Term commencing February 9, 1931; Judge of the Court of Common Pleas, Division of Domestic Relations.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1756.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE E. H. SHELDON COMPANY, MUSKEGON, MICHIGAN, FOR CABINET AND SOAPSTONE CONTRACT FOR PHARMACY AND BACTERIOLOGY BUILDING, OHIO STATE UNIVERSITY, COLUMBUS, OHIO, AT AN EXPENDITURE OF \$27,363.00—SURETY BOND EXECUTED BY THE CONTINENTAL CASUALTY COMPANY, HAMMOND, IND.

COLUMBUS, OHIO, April 10, 1930.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works for and on behalf of the board of trustees of Ohio State University, and The E. H. Sheldon Company, of Muskegon, Michigan. This contract covers the construction and completion of the Cabinet and Soapstone contract and Alternate A, B-1, B-2, B-3, B-4, B-5, B-6 and C, as covered by the form of proposal dated February 21, 1930, for Pharmacy and Bacteriology Building at Ohio State University, and calls for an expenditure of twenty-seven thousand, three hundred and sixty-three dollars (\$27,363.00).

You have submitted a 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. You have also submitted evidence that the Controlling Board has properly consented to and approved the expenditure of the moneys appropriated by the 88th General Assembly, for the purpose covered by this contract, in accordance with Section II of House Bill No. 510 of the 88th General Assembly. In addition, you have submitted a contract bond upon which the Continental Casualty Company, Hammond, Ind., 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 Act have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my