

In my Opinion No. 488, issued under date of June 9, 1929, which had under consideration the election of judicial officers under the provisions of the Akron Municipal Court Act, it was held that:

“Under the provisions of Section 1 of Article XVII of the State Constitution, elections for all elective offices other than those for state and county offices are required to be held on the first Tuesday after the first Monday in November in the odd numbered years. In line with this constitutional provision, Section 4836, General Code, provides that all elective municipal officers and judges and clerks of police courts shall be chosen on the first Tuesday after the first Monday in November in the odd numbered years.”

It would therefore seem that Section 4785-4 of the General Code, to which you refer, is simply declaratory of what the Constitution states upon the same subject. It further appears that construing the provisions of the Marion Municipal Court Act in conjunction with the constitutional provision above enumerated compels the conclusion that the judge who is the present incumbent will hold office until his successor is qualified in pursuance of the election in 1931.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

1562.

BONDS—MAY BE SOLD BASED ON INTEREST RATE HIGHER THAN THAT PROVIDED IN LEGISLATION.

**SYLLABUS:**

*Bonds may be sold under Section 2293-29, General Code, based upon a rate of interest higher than that provided for in the ordinance or resolution adopted under Section 2293-26, General Code, provided that bonds may not bear interest in excess of six per cent per annum as provided in Section 2293-8, General Code.*

COLUMBUS, OHIO, February 27, 1930.

HON. ALBERT T. STROUP, *Prosecuting Attorney, Van Wert, Ohio.*

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

“I am submitting to you the following question for your opinion.

When a school district issues bonds under authority of Sections 2293-2 and 2293-19, is the board permitted or authorized to sell these bonds for a higher rate of interest than that provided in the legislation, by reason of Section 2293-28, if the notice of sale of said bonds invites bids for a different rate of interest, in accordance with said Section 2293-28?”

Section 2293-26, General Code, being part of the Uniform Bond Act, sets forth certain provisions which must be included in the resolution or ordinance authorizing bonds, which shall be passed after having complied with the preliminary requirements set forth in the Uniform Bond Act. It is expressly stated in this section that this resolution or ordinance shall fix the rate of interest and maturity of such bonds

"which, however, need not be the same as those fixed in the prior resolution or ordinance."

Section 2293-27, General Code, provides that before selling such bonds, they shall be offered to the trustees or commissioners or other officers who have charge of the sinking fund of the subdivision and such officers shall have the option of purchasing said bonds or rejecting the same.

Section 2293-28, General Code, provides for the publication of notice advertising bonds for sale after having been rejected by the sinking fund trustees. The section further provides, among other things, that "anyone desiring to do so may present a bid or bids for such bonds based upon their bearing a different rate of interest than specified in the advertisement, provided, however, that where a fractional interest rate is bid such fraction shall be one-quarter of 1 per cent or multiples thereof."

Section 2293-29, General Code, provides that "in case a bid is accepted based upon a rate of interest other than provided for in the ordinance or resolution adopted under Section 2293-26, such acceptance before taking effect must be approved by resolution of the taxing authority, which resolution shall be certified to the county auditor."

The Legislature has expressly provided in Sections 2293-28 and 2293-29 that bonds may be sold, after having been offered to and rejected by the sinking fund trustees, at a rate of interest other than that provided in the resolution or ordinance authorizing the bonds. There is no provision that such rate of interest which the bonds shall ultimately bear must be less than that theretofore provided, and it, accordingly, follows that bonds may be sold under Section 2293-29, General Code, based upon a rate of interest higher than that provided for in the ordinance or resolution adopted under Section 2293-26, General Code, providing, of course, that bonds may not bear interest in excess of six per cent per annum as provided in Section 2293-8, General Code.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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1563.

APPROVAL, BONDS OF SYLVANIA VILLAGE SCHOOL DISTRICT,  
LUCAS COUNTY—\$230,000.00.

COLUMBUS, OHIO, February 27, 1930.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

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1564.

APPROVAL, NOTES OF MAD RIVER TOWNSHIP RURAL SCHOOL DISTRICT,  
CLARK COUNTY—\$60,000.00.

COLUMBUS, OHIO, February 27, 1930.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*