

856.

APPROVAL, BONDS OF BLOOMINGBURG VILLAGE SCHOOL DISTRICT,
FAYETTE COUNTY, \$2,561.88, TO FUND CERTAIN INDEBTEDNESS.

COLUMBUS, OHIO, November 2, 1923.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

857.

APPROVAL, BONDS OF CITY OF GIRARD, TRUMBULL COUNTY, \$6,-
360.00, EAST HIGH STREET'S PORTION, GENERAL IMPROVEMENT
BONDS.

COLUMBUS, OHIO, November 2, 1923.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

858.

ELECTIONS—NO PROVISION WHEREBY CANDIDATES FOR MAYOR
OF YOUNGSTOWN MAY APPOINT CHALLENGERS TO SERVE IN AN
ELECTION.

SYLLABUS:

There is no provision of law whereby candidates for mayor of the city of Youngstown may appoint challengers to serve in an election. Opinion of the Attorney General for 1919, page 1394, followed.

COLUMBUS, OHIO, November 2, 1923.

HON. THAD H. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication requesting an early opinion upon the question of whether the candidates for mayor of the city of Youngstown have a right to appoint challengers for the various precincts of said city at the election to be held November 6th, 1923. You enclose the letter of the Prosecuting Attorney of Mahoning county and also a letter addressed to said Prosecuting Attorney by the Board of Elections of Mahoning county, together with a copy of the Youngstown Charter.

It would seem from the facts submitted that the charter in question was adopted May 15th, 1923, and it follows from the provisions of Article I, Section 4 of section 3515-1 of the General Code, that insofar as said charter applies to the nomination and election of officers it is in effect and for other purposes it will go into effect January 1st, 1924.

In examining the provisions of said charter it has been noted that Section 4 provides for the election of a mayor for the term of four years. It has been further observed that Section 69, which relates to nominations and elections provides that regular municipal elections shall be held at the time provided by the general laws of the state and that candidates for the office of mayor and members of council shall be nominated by petition in the manner provided by the general law and the nomination of candidates for members of the board of education in city districts. Section 20 of said charter provides that the ballots used in all elections shall be without party marks or designations.

In my examination of said charter there has not been found any provision that regulates or attempts to regulate the manner in which challengers shall be appointed. Therefore, it will be necessary to look to the general law in order to determine this question.

In an opinion of the Attorney General in 1919 and found in the reports for said year at page 1394 the question was considered as to whether or not the candidates for mayor in the city of Columbus, which said city had adopted a charter, were authorized to appoint witnesses to the count in the polling places. In this opinion it was held:

"No candidate, as such, whether partisan or otherwise, has the right to designate representatives of himself as challengers or witnesses at the various voting places.

Under existing laws such challengers and witnesses can be appointed in three ways only:

(1) By political parties acting through committees.

(2) In special elections where no candidates are to be voted for, by the judges and clerks of election in each precinct (sections 5058 and 5080 G. C.)

("This provision may apply only in non-registration cities, but no opinion is expressed on this point.)

(3) At any election committees in good faith advocating or opposing any measure to be voted upon have the right in question (section 5058-1 G. C.)"

In the body of the opinion it was stated in substance that the charter of the city of Columbus had been examined and that the same provided that the candidates for mayor were to be nominated by petition without the agency of a political party. It was further pointed out that the sections which govern the matter of nominations by petition do not attempt to confer any right upon such nominees to appoint witnesses and challengers. It was pointed out in that case that the general law must control in view of the absence of any attempt to regulate the matter by the charter itself. It was further pointed out that in view of the fact Columbus was a registration city that section 4922 would apply, which provides:

"At each election, the executive or principal committee of each political party presenting one or more candidates for suffrage may, by writing, certified by its chairman and secretary, and presented to the judges of election at or before this meeting, designate not more than one elector of such city

as witness and one other elector as challenger, to attend at such election in behalf of such party. The judges of election in each ward or election precinct shall admit such witnesses and challengers so accredited into the polling room with themselves and the clerks at the ensuing election and place them so near to themselves and the clerks that they can fully and conveniently watch every proceeding of the judges and clerks from the time of opening to closing of the polls. No other person, except the witnesses and the judges and clerks of the election shall be admitted to the polling place after the closing of the polls until the counting, certifying and signing of the final returns of such election have been completed."

Section 4871 requires the registration of electors in all cities containing a population of one hundred thousand or more. It will be obvious that the city of Youngstown is a registration city.

In view of the foregoing it will be observed that the city of Youngstown in so far as your question is concerned, was in the same status as was the city of Columbus at the time of the rendering of the opinion referred to. It therefore follows that what was said with reference to the appointment of challengers in the Columbus case in the opinion above cited will be equally applicable to the question you present.

In view of the foregoing I am of the opinion that there is no authority under existing law whereby candidates for mayor of the city of Youngstown may appoint challengers to serve in an election.

Respectfully,

C. C. CRABBE,
Attorney General.

859.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND WALTER L. FORD, COLUMBUS, OHIO, CONSTRUCTION AND COMPLETION OF ALL CHANGES TO PENT HOUSE, WYANDOTTE BUILDING, COLUMBUS, OHIO, AT COST OF \$2,075.00—SURETY BOND EXECUTED BY THE ROYAL INDEMNITY COMPANY.

COLUMBUS, OHIO, November 3, 1923.

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

DEAR SIR:—You have submitted for my approval contract between the State of Ohio, acting by the Department of Highways and Public Works and Walter L. Ford, of Columbus, Ohio. This contract covers the construction and completion of all changes to Pent House, Wyandotte Building, Columbus, Ohio, and calls for an expenditure of \$2,075.00.

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 Royal Indemnity Company appear as surety, sufficient to cover the amount of the contract.

You have submitted further evidence indicating that informal bids were taken and tabulated as required by law and contract was duly awarded. Also it appears