

& Corbett of Columbus, Ohio. This contract covers the construction and completion of hot water heater and tank at the Hartman Hotel Building and calls for an expenditure of \$988.30.

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.

You have further submitted evidence indicating that informal bids were taken and the contract duly awarded. You have further submitted a certificate disclosing that said McGonagle & Corbett have complied with the workmen's compensation law.

Finding said contract 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.*

593.

MUNICIPALITY—ORDINANCE INITIATED BY PETITION AND ADOPTED BY ELECTORS OF CITY—MAY BE REPEALED BY COUNCIL.

*SYLLABUS:*

*A city ordinance initiated by petition and adopted by the electors of the city may be repealed by the council of that city.*

COLUMBUS, OHIO, July 18, 1923.

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

GENTLEMEN:—This acknowledges receipt of your letter of recent date in which you submit the following question:

"In the city of Newark an ordinance was initiated by petition and approved by the electors to take effect from and after December 31, 1919, copy of such ordinance is enclosed herewith. Changing conditions in the opinion of council in said city necessitates a change in the organization and compensation of the members of the fire department and the question arises as to the power of council to repeal an initiated ordinance. Said initiated ordinance was never adopted by council.

Question: In what manner may an initiated ordinance be repealed?"

Article II, section 1, of the Constitution of Ohio vests the legislative power in the following words:

"The legislative power of the state shall be vested in a general assembly, consisting of a senate and house of representatives, but the people reserve to themselves the power to propose to the general assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote, as hereinafter provided."

From this language it is evident that the legislative power which is exercised by the people is of the same nature as that which the people have granted to the legislature, and that in contemplation of the constitution the action of the people in proposing a law or in ratifying one at a referendum election has the same effect as the action of the general assembly in passing a law.

Section 3513-23, General Code, provides that the powers conferred upon municipalities by the Constitution of Ohio or by the General Assembly, shall be exercised by the council of the municipality unless such powers have been conferred on some other authority, or reserved to the people.

Section 4227-2 provides that any ordinance or other measure passed by the council shall be subject to referendum for a period of thirty days after such passage. In the absence of anything in the statute to the contrary, we must assume that this right of referendum reserved to the people of a municipality is of the same nature as the right of referendum reserved to the people of the state by the Constitution, and we must therefore conclude that when the people of a municipality have initiated an ordinance which has become law, it is of the same character as though it had been adopted by the council of that municipality. The repeal or amendment of laws is an exercise of legislative power and legislative power once vested is absolute, except as specifically restricted.

"The power of the executive and judicial department in a state government is a grant, not a limitation, while the powers of the legislative department are absolute, except as restricted and limited by the constitution."

12 Corpus Juris, 804.

"The power to amend and repeal legislation as well as to enact it is also vested in the legislature." \* \* \*

12 Corpus Juris, 806.

The conclusion therefore is that an initiated ordinance does not differ in any particular in force and effect or in manner of repeal from an ordinance adopted by the city council and may be repealed by the city council. The action of the council in repealing such ordinance is, of course, subject to referendum under the provisions of section 4227-2.

Respectfully,

C. C. CRABBE,

*Attorney General.*

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594.

APPROVAL, BONDS OF SMITH RURAL SCHOOL DISTRICT, MAHONING COUNTY, \$7,000.00, TO CONSTRUCT SUITABLE ADDITION TO PRESENT BANDY'S SCHOOL AND EQUIP SAME.

COLUMBUS, OHIO, July 19, 1923.