

The wrapper also bears the registered trade-mark of the company. Nothing further appears thereon.

Section 13128 of the General Code, provides, in part:

"Whoever puts up or packs goods or articles sold by weight or count into a sack, bag, barrel, case or package, or whoever puts up or fills a bottle, barrel, keg, drum, can or other container with any commodity sold or offered for sale by liquid measure, shall mark thereon in plain letters and figures the exact quantity of the contents thereof in terms of weight, measure or numerical count; provided, however, that reasonable tolerances and variations and also exemptions as to small packages shall be established by rules made by the Secretary of Agriculture and shall conform to those of the federal law, and provided, further, that this act shall not apply to such packages or containers, weighted, put up, packed or filled in the presence of the customer."

You will note from a reading of this Section that the offense consists in the putting up of goods sold by weight into packages, without marking in plain letters or figures the exact quantity of the contents thereof in terms of weight.

I assume that the package in question is put up in Monroe, Wisconsin, by the Badger Cheese Company. The gist of the offense, as provided by Section 13128, of the General Code, supra, is not the selling of the package of cheese without the weight being marked upon the wrapper, but the putting up of a package without the weight marked on it, and it is apparent that the package in question was put up in Wisconsin, so therefore the Badger Cheese Company could not be guilty of a violation of Section 13128, General Code, in the State of Ohio.

I am therefore of the opinion that a package put up in the State of Wisconsin, and sold in the State of Ohio, containing goods sold by weight in a wrapper without the weight of the contents marked thereon, is not a violation of the provisions of Section 13128, of the General Code, of Ohio.

Respectfully,

GILBERT BETTMAN,
Attorney General

1020.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND SNEAD & CO., JERSEY CITY, N. J., FOR LIBRARY STACKS FOR LIBRARY BUILDING, OHIO STATE UNIVERSITY, COLUMBUS, OHIO, AT AN EXPENDITURE OF \$12,494.00—SURETY BOND EXECUTED BY THE FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

COLUMBUS, OHIO, October 11, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, for the Board of Trustees of the Ohio State University, and Snead and Company, of Jersey City, N. J. This contract covers the construction and completion of library stacks for Library Building, Ohio State University, Columbus, Ohio, and calls for an expenditure of twelve thousand four hundred and ninety-four dollars (\$12,494.00).

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. You have also submitted evidence that the consent of the Controlling Board to the release of funds has been obtained in accordance with Section 11 of House Bill 510 of the 88th General Assembly. In addition, you have submitted a contract bond upon which the Fidelity and Deposit Company of Maryland 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,
GILBERT BETTMAN,
Attorney General.

1021.

CANDIDATES—COMMISSION TO FRAME MUNICIPAL CHARTER—HOW
NOMINATED—DUTY OF ELECTION OFFICIALS TO PROVIDE
BLANK SPACES ON BALLOT WHEN THERE ARE NO NOMINEES.

SYLLABUS:

1. *Candidates for commissioners to frame a charter under Section 8 of Article XVIII of the Ohio Constitution should be nominated as provided by general law, for the nomination of other municipal officers.*

2. *Where no nominations have been made for such candidates, it is the duty of the election officials to provide blank spaces for such election upon the ballot, as provided in Section 5025 of the General Code.*

COLUMBUS, OHIO, October 12, 1929.

HON. WINSTON W. HILL, *Prosecuting Attorney, Delaware, Ohio.*

DEAR SIR:—In your recent communication you request my opinion upon the following statement of facts:

“The city of Delaware through its council, has passed the necessary ordinance as required by Article 18, paragraph 8, of the Ohio Constitution, to submit the question of a charter form of government to the people at the next regular election in November.

The aforementioned article also provides that provision shall be made on the ballot for the election of fifteen persons from the municipality at large to constitute a charter commission.

The question concerning all of the charter enthusiasts is:

Are the fifteen persons, or perhaps more than fifteen, placed on the ballot through selection by the local charter club, or are the said persons placed on the ballot through the medium of a nominating petition for each, and does the said petition have to be filed with the Board of Elections sixty days before the election? As there is no provision in the statutes governing the com-