

2618.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE WALKER CONTRACTING COMPANY, HAMILTON, OHIO, FOR THE HEATING AND ELECTRIC WIRING IN COMPLETION OF FIRST AND SECOND STORIES OF SHOP BUILDING, MIAMI UNIVERSITY, OXFORD, OHIO, AT COST OF \$4,081.00. SURETY BOND EXECUTED BY THE GLOBE INDEMNITY COMPANY.

COLUMBUS, OHIO, June 29, 1925.

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

DEAR SIR:—You have submitted for my approval a contract between the state of Ohio, acting by the department of highways and public works, and The Walker Contracting Company, Hamilton, Ohio. This contract covers the heating and electric wiring in completion of first and second stories of shop building, Miami university, Oxford, Ohio, and calls for an expenditure of \$4,081.00.

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 Globe Indemnity Company 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 given for ten days as authorized by the board of control, 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,
C. C. CRABBE,
Attorney General.

2619.

MUNICIPAL COURT OF EAST LIVERPOOL—PRIMARY MUST BE HELD ON NEWLY CREATED DISTRICT FOR NOMINATION OF CANDIDATES FOR OFFICERS OF SUCH WORK.

SYLLABUS:

House bill No. 368, passed by the 86th general assembly created a new judicial district separate and apart from the city of East Liverpool and from Liverpool township, although coterminous with their boundaries, and the primary must be held in this district for the nomination of candidates for officers of such court.

COLUMBUS, OHIO, June 30, 1925.

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

DEAR SIR:—I acknowledge receipt of your letter of recent date enclosing two

letters from the board of deputy state supervisors of elections of Columbiana county. The question presented is in substance as follows:

The act known as house bill 368, passed by the 86th general assembly, reads in part as follows:

"That there be and hereby is created a court of record in and for the city of East Liverpool, and the township of Liverpool in the county of Columbiana and state of Ohio, to be styled 'the municipal court of East Liverpool, Ohio,' the jurisdiction thereof to be as herein and hereinafter fixed and determined."

The board of elections inquires as to the proper method of nomination of the judge and clerk of this court. The clerk of the board of elections contends that the candidates for these offices must file petitions in order to become candidates in the township outside the corporate limits, since no primary is provided for within a township.

While the court created by this act is termed the municipal court of East Liverpool, an examination of the act discloses that the officers are elected by the electors of the whole district; that its jurisdiction extends over the municipality and the township; that the jury commissioners are chosen from said subdivision; jurors may be residents of either; candidates for clerk or judge of the municipal court may be residents of either; in fact, throughout the act there is apparent the intention to create a new judicial district coterminous with the boundaries of the city and the township. Therefore, it is apparent that these officers are not elected from a municipality or from a township as such, but are elected from the judicial district created by the terms of the act.

Section 4949 of the General Code, so far as applicable, reads as follows:

"Candidates for * * * all elective state, district, county and municipal offices, * * * shall be nominated or selected in such state, district, subdivision or municipality, in accordance with the provisions of this chapter. * * *"

Section 4950 reserves the right of nomination by petition, and section 4951 excepts from the operation of section 4949 townships and municipalities having a population less than two thousand. Since section 4951 is in the nature of an exception to a general rule, its provisions must be strictly construed. It is apparent, therefore, that section 4951 cannot in any sense apply in the present case.

While it is true that certain territory which is included in the township of Liverpool is also a part of the municipal court district of East Liverpool, and while it is true that no primary will be held in Liverpool township for the election of township officers this does not prevent the operation of section 4949 to require a primary in the entire judicial district, including the territory in the township for the purpose of nominating candidates for clerk and judge of the municipal court.

In case no declarations of candidacy are filed for either position, it will be the duty of the deputy state supervisors of elections to provide a ballot with blank spaces so that names of nominees may be written in. It will be necessary for the deputy state supervisors and inspectors of elections to provide a place for voting at said primary election in the same way as though a township primary had been held.

If nominations are to be made by petition under section 4996 of the General Code, those petitions may be signed not only by residents of the territory which comprises Liverpool township, but also from the territory within the municipality of East Liverpool. It is apparent, of course, that so far as the November election

is concerned, the ballot for municipal judge must be a non-partisan ballot, and the ballot for clerk of court will appear under the proper designation if there is a nomination by a political party.

Respectfully,
C. C. CRABBE,
Attorney General.

2620.

MUNICIPALITIES—AUTHORITY TO ISSUE BONDS FOR PURPOSES SPECIFIED IN SECTION 3939 G. C.—APPROVAL OF FIFTY-FIVE PER CENT OF ELECTORS VOTING UPON THE PROPOSITION REQUIRED.

SYLLABUS:

1. *Under the provisions of house bill No. 175, municipalities shall submit the question of a bond issue for the purposes specified in section 3939, General Code, when the amount exceeds the limitations of section 3941, General Code, as amended, at the November election only, except in cases where it is necessary to rebuild or repair public property wholly or partially destroyed by fire or other casualty.*

2. *The question of issuing bonds after July 21, 1925, by municipalities, when an election is required, shall be approved by fifty-five per cent of the electors of the municipality voting upon the proposition before the taxing authorities of such municipality shall have authority to proceed with the issuance of such bonds.*

COLUMBUS, OHIO, June 30, 1925.

HON. MARION B. OWEN, *Prosecuting Attorney, Urbana, Ohio.*

DEAR SIR:—This acknowledges receipt of your recent communication as follows:

“The city of Urbana, Ohio, is considering the advisability of submitting to a vote of the people the question of a bond issue for a purpose within the scope of the Longworth bond act. House bill No. 175 provides in substance that bond issues of a political subdivision of the state of Ohio may hereafter be submitted only at a regular November election and that the issue of bonds shall hereafter be authorized by a vote of fifty-five per cent of the electors. As I understand it, this law becomes effective during next July, and by its terms, expressly amends section 3941 of the General Code.

“Section 3942 of the General Code of Ohio apparently grants to council the authority to issue bonds ‘upon obtaining the approval of the electors of a corporation at a general or special election.’

“The specific questions therefore which I desire answered are as follows:

“FIRST: Can the council of the city of Urbana, Ohio, submit to the people the question of a bond issue only at the regular November election, or can the question be submitted at the August primary, or at a special election called for the purpose?

“SECOND: What majority of the electorate is necessary to authorize a municipal bond issue when the question of the issuance of bonds is submitted to the people?”