voter is concerned.

694 By Section 97 of the Charter, it is provided that the Board of Park Commissioners shall have full power to employ and compensate all persons whom, in its judgment, it may deem proper in maintaining and supporting the parks, squares, springs and monuments, or any other building, collection, garden or reservation provided for in the Charter. The appointment contemplated by you would be made under this section of the Charter, and I cannot see any line of discrimination by which it could be distinguished from the appointment of the Superintendent of Public Instruction in the Lyman case, above referred to.

695 It is true that by Section 42 of Article 1 of the City Code, it is provided that it shall not be lawful for any of the heads of departments under the City Government to employ or allow to be employed in any capacity, within the City limits, any person who is not a registered voter of the City of Baltimore, and that this section of the City Code does not appear to have been adverted to in the Lyman case; but as it was impossible for the Court to have reached its conclusion without overriding it, it must be taken, in my opinion, in a legal sense, to have been drawn into controversy in the Lyman case, and to have been disposed of by the Court of Appeals as inconsistent with the prohibitory scope of Section 26 of the Charter above mentioned. In other words, the language: "all municipal officials, except females, shall be registered voters of the City of Baltimore," must be treated as a statutory negation of the necessity of any such employee, as the one whose employment you contemplate, being a registered voter. You will not fail to note the broad power conferred upon the Park Commissioners of employing and compensating <u>all persons whom, in its judgment, it may deem proper</u> for the purposes mentioned in Section 97 of the Charter. Nor do I think non-residence, under the circumstances, a disqualification, the position to be filled not being representative or legislative in Character, and there being no Charter provision or ordinance making residence an essential qualification.

State vs. Blanchard (City Surveyor) 6 La. Ann., 518.

State vs. McGeorge, 23 Fla. 585.

State vs. Swearinger, 12 Ga., 23.

Truly yours,

(Signed) W. Cabell Bruce,

City Solicitor.

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