

It is disclosed from this case that section 3396 G. C. formerly read:

“When a majority of the electors of said township at some regular election shall vote in favor. * * *”

Said section is now amended to read:

“If a majority of all the votes cast at the election are in the affirmative. * * *”

By this amendment the legislature may have intended to amend for the purpose of providing consideration only of the votes submitted on the proposition, rather than upon the number of electors voting for president and vice-president as found to be the case by the court, as above cited, or it may have intended consideration of all the votes cast on the question involved.

In the case of *Wellsville vs. Connor*, 91 O. S., page 28, the court has evidently taken into consideration the interpretation of section 3396 G. C. The second syllabus of this case reads as follows:

“Where a voter at an election duly held does not by his ballot express his choice for the office to be filled, or on a question submitted to the electors, his ballot should not be counted for such office or on the question. But if it is required by law that a majority or any certain proportion of the votes cast at the election should be in favor of a proposition in order that it should carry, then all the votes cast at the election, including blank and unintelligent ballots must be considered.”

The latter part of this syllabus must have reference to section 3396 G. C., and with this interpretation, it will require a majority of all the votes cast at the election. This conclusion is further emphasized in the opinion of the court on page 33, in which emphasis is given to the provision of the statute which expresses that the vote shall be upon the *question of issuing the bonds*.

It is therefore concluded that where the statute requires a determination from the votes cast without using a further expression *upon the question*, it must be inferred that all votes cast must be reckoned in determining the result of the election.

Using this interpretation, it is believed that in your case it would have required 193 votes in favor of the Town Hall to have given a majority in favor thereof, as contemplated by section 3396 G. C.

Respectfully,
C. C. CRABBE,
Attorney General.

2310.

AUTHORITY OF JUDGE OF JUVENILE COURT UNDER PROVISIONS
OF SECTION 8034-1 G. C.—SECTION 1642-1 G. C. CONSTRUED.

SYLLABUS:

When orders made in the common pleas court or probate court as to the care and custody of minor children are certified to the juvenile court, under the pro-

visions of section 8034-1 G. C., for further proceedings according to law, the juvenile court may then exercise jurisdiction over said minors under the provisions of section 1642-1 G. C. in the same manner as in cases originally brought in said juvenile court. No new jurisdiction is conferred by said sections, except the authority to proceed in said cases, in the same manner, and with the same powers, as if said cases had been adjudicated in the juvenile court.

COLUMBUS, OHIO, March 23, 1925.

HON. JOHN B. COONROD, *Probate Judge, Fremont, Ohio.*

DEAR SIR:—Acknowledgment is hereby made of your recent communication which reads:

“Sections 8034 and 1642 of the General Code were supplemented by the enactment of sections 8034-1 and 1642-1 as found in Laws of Ohio, Volume 110, page 127.

“I am uncertain of my authority as judge of the juvenile court in the jurisdiction conferred by the above mentioned sections and would respectfully request your opinion concerning the meaning of the following therein to-wit:

“Under section 8034-1 ‘for further proceedings thereunder according to law’ and also under section 1642-1 your opinion concerning the meaning of ‘to proceed therein as in original cases.’”

Section 8031 G. C. provides certain conditions under which the parents of minor children may be summoned to appear before the probate court, upon complaint by affidavit of some reputable citizen of the county in behalf of the child or children, setting forth facts bringing the case within this statute, and that if, upon the hearing of the matters complained of the court finds them to be true, and that it is for the best interests of such child or children to be taken from such parents, the court may make an order to that effect and direct the placing of such child or children in a suitable home.

Section 8032 G. C. provides that when husband and wife are living separate and apart from each other, or are divorced and the question as to the care, custody and control of the offspring of their marriage is brought before a court, that said parents shall stand upon an equality as to the care, custody and control of such children.

Section 8033 G. C. provides that upon hearing the testimony of either or both of such parents, corroborated by other proof, the court shall decide as to the care and custody of such children.

Section 8034 G. C. provides that the court may order either or both parents to support or help support such children, whoever be their custodian, and also may make any just and reasonable order or decree, permitting the parent who is deprived of such care, custody and control of children to visit and have temporary custody of them.

Section 8034-1 G. C. provides:

“In any case where the common pleas court, or a probate court having jurisdiction, has made an award of the custody of a minor child or children and an order for support of such minor child or children, such court may certify the same to the juvenile court of the county for further proceedings thereunder according to law, and thereupon the jurisdiction of the common pleas court, or probate court, in such case as to the custody and support of such minor child or children shall cease.”

Section 1642 G. C. provides that certain courts shall have jurisdiction over delinquent, neglected and dependent minors under eighteen years of age, also jurisdiction over parents, guardians, or any person or persons, corporation or agent of a corporation, responsible for or guilty of causing, encouraging, aiding, abetting or contributing toward the delinquency, neglect or dependency of such minors.

Section 1642-1 G. C. provides:

“In any case where the custody and support of a minor child or children has been determined and decreed by the common pleas court, or a probate court having jurisdiction, and such case has been certified to the juvenile court as provided in section 8034-1 the juvenile court shall have jurisdiction to proceed therein as in original cases.”

Supplemental sections 8034-1 and 1642-1 of the General Code were enacted in the same bill (Senate Bill No. 112) and should be read and construed together.

Section 8034-1 G. C. provides for certifying the order of the common pleas court or probate court, made in certain cases as to the custody and support of minor children, to the juvenile court for further proceedings thereunder according to law, and also that thereupon the jurisdiction of the common pleas and probate courts, as to the custody and support of such minors shall cease.

Section 1642-1 G. C. provides that when said order as to custody and support of minor children has been certified to the juvenile court as provided in section 8034-1 G. C., said court shall have jurisdiction to proceed therein as in original cases.

You request an opinion as to the meaning of “for further proceedings according to law” and “to proceed therein as in original cases.”

Section 1639 G. C. provides as follows:

“Courts of common pleas, probate courts, and insolvency courts and superior courts, where established, shall have and exercise, concurrently, the powers and jurisdiction conferred in this chapter. The judges of such courts in each county, at such times as they determine, shall designate one of their number to transact the business arising under such jurisdiction. When the term of the judge so designated expires, or his office terminates, another designation shall be made in like manner. In case of the temporary absence or disability of the judge so designated, another designation shall be made in like manner to cover the period of such absence or disability.

“The words, ‘juvenile court,’ when used in the statutes of Ohio, shall be understood as meaning the court in which the judge so designated may be sitting while exercising such jurisdiction, and the words ‘judge of the juvenile court’ or ‘juvenile judge’ as meaning such judge while exercising such jurisdiction. * * *”

Section 3093 G. C., paragraph two, reads as follows:

“The term ‘juvenile court’ as used in this act shall be construed as applying to such courts as are created by section 1639 and all other courts now or hereafter created to administer the provisions of law relating to dependent, delinquent and neglected children.”

The juvenile court as it exists in Ohio can hardly be said to be a separate and

independent court, but rather a mere adjunct of the court of which the judge designated to be judge of the juvenile court, is a member. The jurisdiction of the juvenile court is not that however which belongs to the court of which the judge is a member, but that which is conferred on the juvenile court.

Rockel's Probate Practice, Section 2147.

The juvenile court has no jurisdiction other than that conferred by statute. "For further proceedings according to law" necessarily means the law which may be administered by the juvenile courts, and whatever action is taken by the juvenile court, after receiving the certified order provided for in section 8034-1 G. C. must necessarily be taken under the jurisdiction of said juvenile court.

Said section does not confer jurisdiction upon the juvenile court, but only provides for the issuing of the certified order, and the ceasing of jurisdiction. It makes no provision for the enforcement of said order by the juvenile court.

Section 1642-1 G. C. does not add jurisdiction to the juvenile court, but provides only that said court, upon receipt of said certified order "shall have jurisdiction to proceed therein as in original cases."

The jurisdiction and procedure in original cases is defined by statutes which provide for filing a complaint, issuing a citation or warrant, hearing and commitment, or making other disposition of the minor child.

The only effect of the enactment of sections 8034-1 and 1642-1 G. C. is to authorize the juvenile court to exercise jurisdiction in cases in which jurisdiction has formerly been exercised by the common pleas or probate court, and in which cases, orders as to custody and support have been certified to said juvenile court.

It is therefore the opinion of this department that when orders made in the common pleas court or probate court as to the care and custody of minor children are certified to the juvenile court, under the provisions of section 8034-1 G. C., for further proceedings according to law, the juvenile court may then exercise jurisdiction over said minors under the provisions of section 1642-1 G. C. in the same manner as in cases originally brought to said juvenile court. No new jurisdiction is conferred by said sections, except the authority to proceed in said cases, in the same manner and with the same powers, as if said cases had been adjudicated in the juvenile court.

Respectfully,

C. C. CRABBE,

Attorney General.

2311.

APPROVAL, BONDS OF OREGON TOWNSHIP RURAL SCHOOL DISTRICT, LUCAS COUNTY, \$237,000.00.

COLUMBUS, OHIO, March 23, 1925.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.