

with said vote, I am unable to see, from the provisions of the law, any limitation or restriction made upon the right of a committee to subdivide such apportionment within such county. The apportionment must be in proportion to the votes of each county, and when that requirement of the law is met, no further condition or restriction is imposed upon any action a state committee may determine to take in reference to said apportionment.

I am therefore of the opinion that the provisions of said section in regard to the apportionment provided for therein do not so limit the authority of a state committee as to prevent or prohibit it from prescribing and directing a reasonable division of said apportionment within a county. \* \* \* \* \* Any subdivision of territory for the election of delegates must be made with due regard to the operation of the primary election law. Whether or not the division of territory is practicable for the conduct of the primary is a matter for the determination of the election authorities."

Concurring in this view with respect to the breadth of power vested in the state executive committees of the parties, it is my opinion that the authority in question may be delegated to the county committees.

While it might be contended that the subject matter of your inquiry is not one upon which the Secretary of State should properly make a ruling, in view of the fact that the practicability of the matter of the division of territory for the conduct of the election is one properly for the determination of the election authorities, it is my opinion that the ruling which you have submitted is one which is entirely proper for you to make as Chief Election Officer.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

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4075.

APPROVAL, BONDS OF COAL GROVE VILLAGE SCHOOL DISTRICT,  
LAWRENCE COUNTY, OHIO—\$10,000.00.

COLUMBUS, OHIO, February 19, 1932.

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

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4076.

DEPOSITORY BOND—TOWNSHIP FUNDS—TOWNSHIP TRUSTEES  
MAY ACCEPT SECURITIES ENUMERATED IN SECTIONS 4295 AND  
2288-1 G. C. IN LIEU THEREOF.

*SYLLABUS:*

*Township trustees may accept from depositories of township funds and depository banks may deposit in lieu of the bond required by Section 3324 of the General Code, the securities mentioned in Sections 4295 and 2288-1, General Code, therein imposed. (Opinions of the Attorney General, 1928, page 108, approved and followed.)*

COLUMBUS, OHIO, February 20, 1932.

HON. ELMO M. ESTILL, *Prosecuting Attorney, Millersburg, Ohio.*

DEAR SIR:—Your request for opinion reads as follows:

“In the establishment of a depository for township funds, Sections 3320 to 3326, General Code, I find no provision for any other type of bond or security than that provided for in Section 3322, which provides as follows:

‘Such bank or banks shall give a good and sufficient *bond* to be approved by the township trustees, etc.’

I find that Section 2288-1 G. C., providing for first mortgage security does not apply to township funds, nor is there any other provision for any other type of security as provided for in cases of county, municipal, and school funds, (Sections 2732, 4295, 7605 and 7607 G. C.) By experience, I find that depository banks now find it impossible to obtain surety bonds to secure public deposits.

In view of the foregoing, I would appreciate your opinion on the following questions:

(1) Can a depository bank of township funds legally place up any other type or character of security than personal or surety bond for such deposits? If so, can such security be in lieu of a personal or surety bond or must it be in addition thereto?

(2) With no specific provisions of law authorizing other types of security in cases of township deposits other than those provided for in Section 3322 G. C., would such depository bank have the authority to make use of the assets of such bank, such as first mortgage security, government bonds, etc., as collateral security which would be in addition to a personal bond, assuming that there would be a proper assignment and actual delivery of such collateral to the clerk of the board of trustees and such collateral is expressly set forth in the bond?

(3) Although no provisions are made for county officials, such as clerk of courts, sheriff, etc., to obtain a bond to secure the trust funds so deposited by them, would a bank have authority to give a depository bond for such deposits?

(4) If a bank has such authority I assume that such bonds would prevail as against the general creditors of such bank in case of liquidation.”

Similar requests have been received from the Prosecuting Attorneys of Ash-tabula and Wyandot Counties. I am therefore combining the three requests in this opinion.

Section 2288-1 of the General Code, being the section enacted in the act set forth in 106 O. L., p. 434, which section is mentioned in your request, reads as follows:

“In addition to the undertakings or security provided for in sections 2732, 4295, 7605 and 7607, it shall be lawful to accept first mortgages, or bonds secured by first mortgages bearing interest not to exceed six per cent. per annum, upon unencumbered real estate located in Ohio, the value of which is at least double the amount loaned thereon. If the amount loaned exceeds one-half the value of the land mortgaged, exclusive

of the structures thereon, such structures must be insured in an authorized fire insurance company, or companies, in an amount not less than the difference between one-half the value of the land exclusive of structures, and the amount loaned, and the policy or policies shall be assigned to the mortgagee. The value of such real estate, shall be determined by valuation made under oath by two resident freeholders of the county where the real estate is located, who are conversant with real estate values. There shall be deposited with said mortgage, an abstract of title made by some competent person or persons or company, accompanied by the opinion of a competent attorney, which opinion shall certify that the mortgage is a first lien upon the premises mortgaged, or said title shall be guaranteed by a company organized under, and which has complied with the provisions of section 9850 of the General Code."

Section 3324 of the General Code, providing for a bond from a depository bank to the township trustees for moneys of the township deposited by such trustees became effective as a law on January 1, 1924. Said section reads as follows:

"Such bank or banks shall give good and sufficient bond to the approval of the township trustees in a sum at least equal to the amount deposited for the safe custody of such funds, and the trustees of the township shall see that a greater sum than that contained in the bond is not deposited in such bank or banks, and such trustees and their bondsmen shall be liable for any loss occasioned by deposits in excess of such bonds."

I would also call your attention to Section 4295 of the General Code, more particularly the last sentence. Said section reads as follows:

"The council may provide by ordinance for the deposit of all public moneys coming into the hands of the treasurer, in such bank or banks, situated within the municipality or county, as offer, at competitive bidding, the highest rate of interest and give a good and sufficient bond issued by a surety company authorized to do business in the state, or furnish good and sufficient surety, or secure said moneys by a deposit of bonds or other interest bearing obligations of the United States or those for the payment of principal and interest of which the faith of the United States is pledged, including bonds of the District of Columbia; and farm loan bonds issued under the provisions of the act of congress known as the federal farm loan act, approved July 17, 1916, and amendments thereto; bonds of the state of Ohio or of any other state of the United States; legally issued bonds of any city village, county, township or other political subdivision of this or any other state or territory of the United States and as to which there has been no default of principal, interest or coupons, and which in the opinion of the treasurer are good and collectible providing the issuing body politic has not defaulted at any time since the year 1900, in the payment of the principal and interest of any of its bonds; notes issued under authority of law by any county, township, school district, road district, or municipal corporation of this state; said security to be subject to the approval of the proper municipal officers, in a sum not less than ten per cent in excess of the maximum amount at any time to be deposited. *And whenever any of the funds of any of*

*the political subdivisions of the state shall be deposited under any of the depository laws of the state, the securities herein mentioned, in addition to such other securities as are prescribed by law, may be accepted to secure such deposits.”* (Italics, the writer’s.)

This section was enacted and became effective on August 1, 1927. It is to be noted that at the beginning of the section it has reference to councils of cities and villages. The language of the last sentence, however, is unambiguous, and provides that such section shall apply to the funds of any political subdivision.

It is a well established rule of statutory construction as stated in Lewis’ Sutherland Statutory Construction, Vol. 2, page 705:

“One who contends that a section of an act must not be read literally must be able to show one of two things: either that there is some other section which cuts down or expands its meaning, or else that the section itself is repugnant to the general purview. The question for the courts is, what did the legislature really intend to direct; and this intention must be sought in the whole of the act, taken together, and other acts in *pari materia*.”

I find no sections of the act (112 O. L., 195) of which Section 4295, General Code, was a part, nor in any other section of the Code, a provision limiting the language of this section.

It is a familiar rule of interpretation of statutes that effect must be given to all of the language of a statute whenever possible and unless such Section 4295, General Code, has reference to other political subdivisions than cities or villages, the entire last sentence is redundant.

Sections 2288-1, 3324 and 4295, General Code, are in *pari materia*, and should be construed together in order to determine the legislative intent. When reading them together, there is no ambiguity and a clear intention of the legislature is shown with reference to the securing of deposits of township funds.

As reasoned by my predecessor in office, in an opinion found in Opinions of the Attorney General for 1928, at page 108, a township is one of the political subdivisions of the state, and it was held in said opinion as disclosed by the syllabus:

“Township trustees may accept from a depository of township funds in lieu of a depository bond the securities enumerated in Section 4295 of the General Code, subject to the conditions and limitations in said section contained.”

The conclusion reached in this opinion is apparently the logical conclusion to be arrived at by reason of the language contained in the section of the statute therein referred to. If such conclusion is the correct interpretation of Section 4295 of the Code, it would follow that the language contained in Section 2288-1, *supra*, merely enlarges the terms of the sections enumerated in said statute. Section 2288-1, General Code, by the use of the language “In addition to the undertakings or security provided in Sections \* \* 4295 \* \* it shall be lawful to accept first mortgages” purports to enlarge the types of securities that may be given to secure the deposit of public funds and not restrict them. In other words, the effect of Section 2288-1 is the same as though the types of securities mentioned therein

were described and included in the provisions of Sections 2732, 4295, 7605 and 7607, of the General Code.

The questions of law contained in your second and third inquiries are now being adjudicated by the courts arising out of litigation in Cuyahoga County and I therefore can express no opinion thereon at this time.

I am therefore of the opinion that township trustees may accept from depositories of township funds, and depository banks may deposit in lieu of the bond required by Section 3324 of the General Code, the securities mentioned in Sections 4295 and 2288-1, General Code, therein imposed. (Opinions of the Attorney General, 1928, page 108, approved and followed.)

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

4077.

OFFICES INCOMPATIBLE—JUDGE OF SUPREME OR COMMON PLEAS COURT AND CENTRAL COMMITTEEMAN—MEMBER OF CONGRESS IS STATE OFFICER—ARTICLE IV, SECTION 14, CONSTITUTION OF OHIO INAPPLICABLE TO MUNICIPAL JUDGE.

*SYLLABUS:*

1. *A judge of the supreme court or of a court of common pleas may not be elected to the office of central committeeman.*

2. *The office of member of Congress is an office under authority of this state within the meaning of the phrase as used in Article IV, Section 14 of the Constitution.*

3. *The provision of Article IV, Section 14 of the Constitution that votes for a judge of the supreme court or judge of the court of common pleas for an elective office, except a judicial office, shall be void, has no application to judges of a municipal court.*

COLUMBUS, OHIO, February 20, 1932.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“The primary election this year, as you are aware, will be held on May 10th, and consequently the final filing date for Declarations of Candidacy, March 11th, is close at hand.

In the primary this year, members of party controlling committees are elected in the same manner in which other candidates are nominated. Article IV, Section 14 of the Constitution of Ohio reads as follows:

“The judges of the supreme court, and of the court of common pleas, shall, at stated times, receive, for their services, such compensation as may be provided by law, which shall not be diminished, or increased, during their term of office; but they shall receive no fees or perquisites, nor hold any other office of profit or trust, under the authority of this state, or the United States. All votes for either of them