

The most serious question with respect to this title is raised by the will of Parmelia S. Grant shown on page 80, which gives this property to Jennie D. Jameson during life with the remainder over to her children at her death. Mrs. Jameson now has two children, who joined in the conveyance to the Langells as shown on page 98 of the Abstract. Should Mrs. Jameson have any more children and should they survive her, they would of course have an interest in this property. However, the affidavit shown on page 95, the original of which is also submitted herewith, shows that Mrs. Jameson is now fifty-three years of age, and that she is and has been a widow since June 18, 1914. Furthermore the affidavit shows that a portion of the purchase money derived from the sale to Langell was used to pay indebtedness of the estate of Parmelia S. Grant, so that there is a possibility of subrogation in this regard. Furthermore, the deed to the state from Frank E. and Nellie M. Langell is a warranty deed and these grantors, at the present time at least, are responsible. Everything considered, I do not think there is any great danger of a defeat in title in this regard.

Taxes for the year 1926, the amount of which is not set forth either in the Abstract or in the certificate enclosed, are a lien. However, Mr. and Mrs. Langell in their contract of sale have agreed to pay these taxes. Payment should of course be made a condition of the delivery of the voucher.

A warranty deed from Frank E. Langell and wife, Nellie M. Langell to the State of Ohio is submitted herewith.

It appears from a copy of the minutes herewith enclosed that said purchase has been approved by the Controlling Board. A regularly certified encumbrance estimate should accompany this Abstract.

The Abstract, warranty deed and other data submitted are herewith returned.

Respectfully,
C. C. CRABBE,
Attorney General.

3866.

BOND ISSUES SUBMITTED TO VOTE OF THE PEOPLE MUST CARRY
BY A FIFTY-FIVE PER CENT VOTE.

SYLLABUS:

Bond issues submitted to a vote of the people must carry by a fifty-five percent vote to authorize the issuing of the bonds.

COLUMBUS, OHIO, December 8, 1926.

HON. GEORGE A. MEEKISON, *Prosecuting Attorney, Napoleon, Ohio.*

DEAR SIR:—I am in receipt of your communication as follows:

“At the general election held November 2, 1926, the Board of Education of Flatrock township, Henry county, Ohio, submitted the question of an issue of bonds in the sum of \$68,000.00 to the electorate of said township for the purpose of obtaining funds to enlarge and repair a township high school.

Two hundred and twenty-two persons voted in the affirmative and one hundred and eighty-five persons voted in the negative. 54.54 per cent of those voting voted in favor of the bond issue.

Two sections of the Code appear to be direct conflict:

Section 7626 provides:

'If a majority of the electors voting on the proposition to issue bonds vote in favor thereof, the board thereby shall be authorized to issue bonds for the amount indicated by the vote.'

Section 5649-9c (part of the Krueger Act) provides:

'If 55 per cent of those voting upon the proposition vote in favor thereof the taxing authorities of said district shall have authority, etc.'

I observe that section 5649-9c was passed subsequent to section 7626.

Please give me your opinion as to which of the sections govern."

The parts of the sections set out in your communication above are in direct conflict with one another as to the percentage of those voting in favor of a proposition necessary to carry such proposition.

Section 7626 of the General Code is not in so many words repealed by the enactment of the Krueger Bill, known as House Bill No. 175, found in 111 Ohio Laws, page 335. However, the so-called Krueger Act is an attempt to provide one method of issuing bonds for all subdivisions in cases where a bond issue is submitted to a vote of the people.

Section 7626 is a part of the School Code and relates to the issuing of bonds upon a vote of the electors. This section, together with sections 7625, 7627, 7629 and 7630, are related sections and an issue of bonds under these sections was prior to the enactment of the Krueger Bill within the fifteen mill limitation.

The Krueger Bill does not authorize the issuing of bonds in the first instance but is a statute providing the manner of procedure for all bonds authorized by a vote of the people. The authorization for bond issues for a school board by a vote of the people is still by virtue of section 7625 et seq. and for that reason, it being the authorizing section, the same was not repealed.

Section 5649-9a, a part of the Krueger Bill, in part provides:

"The bond issuing authority of any political subdivision may elect to submit any bond issue authorized by law to vote of the people. In such case and in every case on which said bond issuing authority is required to submit any bond issue to vote of the people, * * *"

The remainder of the section relates to the formalities as to passing of resolution and certification of same to the county auditor and allied subjects.

Section 5649-9b provides when the election shall be held and provides the notice which shall be published and the number of times published.

Section 5649-9c provides the form of ballot for the submission of such action and in the second paragraph provides:

"If fifty-five per cent of those voting upon the proposition vote in favor thereof, the taxing authorities of such district shall have authority to proceed with the issue of such bonds, and the levy of a tax sufficient to pay the interest and the retirement levies on such bonds outside of the limitation of section 5649-5b and all other limitations upon tax rates prescribed by law during the life of the bonds in the manner provided by law. * * *"

The balance of this section relates to the proceedings for the issuing of bonds and the remainder of the act provides for the issuing of bonds under section 7630 and also as to the issue of bonds when the issue would exceed the net indebtedness as defined by section 7630-2 and other kindred subjects. This act was an attempt to provide the method of issuing bonds by a vote of the people for all subdivisions. The

authority to issue bonds for the various subdivisions such as counties, municipalities, school districts, townships and library districts are under the separate heads relating to such subdivision and each have certain peculiar characteristics pertaining to the issue of such bonds.

By the Krueger Bill, the bond issuing authority of any political subdivision, may elect to submit any bond issue to a vote of the people. By this is meant that they may submit to a vote of the people bond issues which they are not required in the first instance to submit to such a vote but may issue on their own initiative.

In cases where they elect to submit a bond issue and in all cases in which the submission of such bond issue is required by law, such submission shall be under the terms and conditions of the Krueger Act. Insofar as the authorization in other sections is in conflict with the Krueger Bill, the Krueger Bill must prevail over such section by reason of being a later enactment and for the reason that it is an attempt to substitute a new method of procedure in all cases of bond issues voted by the people.

You are therefore advised that bond issues submitted to a vote of the people must carry by a fifty-five per cent vote to authorize the issuing of the bonds.

Respectfully,
C. C. CRABBE,
Attorney General.

3867.

SURETY BONDS—MEMBER OF COUNCIL MAY NOT WRITE BOND FOR DEPOSITORY OF VILLAGE FUNDS—SECTION 3808 G. C. CONSTRUED.

SYLLABUS:

Contracts entered into by a depository under section 4295 of the General Code and for construction where the surety bond is solicited and written by a member of a council are illegal under section 3808 of the General Code.

COLUMBUS, OHIO, December 8, 1926.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your communication as follows:

"A. The village of Euclid has established a legal depository in accordance with the provisions of sections 4295 and 4296 G. C.

B. The said depository bank furnishes surety company bonds as protection against loss of the public funds of said village.

C. The council of the village awards contracts for various improvements to be made within the corporate limits of said village and contractors are required to furnish construction bonds for the faithful performance of their contract, said construction bonds usually being in surety company form.

D. A member of the council of said village is a member of an insurance company in the city of Cleveland and writes surety company bonds.

Question: Would it be considered illegal for the member of the village council referred to above, to solicit and write surety company bonds to be furnished by the depository bank and the various contractors performing the work for the village, said surety company bonds to be filed with the clerk of said village in accordance with law, as a part of said contracts?"