

section, which occupations included mines. This was clearly the legislative intent because when this section was enacted in House Bill No. 362, found in 108 Ohio Laws, Part I, at page 540, the title of the act provided for the amendment of Section 1008 and the supplementing thereof by the enactment of Section 1008-1 "relative to prohibiting the employment of females in certain occupations."

That the Legislature did not intend to prohibit females from working at these lines of work when they were not hired but were just working for themselves is further indicated by the provisions of the act itself. For instance the act provides that the employment of females shall be prohibited "in employments requiring frequent or repeated lifting of weights over twenty-five pounds."

We think that notice may be taken of the fact that a house-wife, especially one residing on a farm, is frequently engaged in work in the performance of which she is often required to lift articles weighing in excess of twenty-five pounds. The Legislature did not intend that she should be prohibited from performing such work. Nor did it intend that a woman who owned a coal mine and operated the same herself should be fined for employing herself at such work, since it would be impossible for the owner or operator to employ herself.

It is, therefore, very apparent that the Legislature, when enacting Section 1008-1, General Code, intended to prohibit the hiring of women to work in mines or other places of employment mentioned in the statute.

It is, therefore, my opinion that a woman who owns a coal mine is not prohibited from working therein under the provisions of Section 1008-1, General Code, unless she is working under a contract of hire.

Respectfully,

JOHN W. BRICKER,
Attorney General.

3805.

BOND ISSUE—MAJORITY AFFIRMATIVE VOTE SUFFICIENT ALTHOUGH NO MENTION MADE ON BALLOT OF FEDERAL AID—AMENDED SENATE BILL NO. 403, 90TH GENERAL ASSEMBLY AS AMENDED.

SYLLABUS:

Where the question of issuing bonds is submitted to the electors of a subdivision under the provisions of Section 1 of Amended Senate Bill No. 403 of the 90th General Assembly, as amended by Amended Substitute Senate Bill No. 38 of the first special session of the 90th General Assembly, as amended by Amended Senate Bill No. 28 and Amended Senate Bill No. 102 of the second special session of the 90th General Assembly, an affirmative vote of a majority of those voting upon the proposition is sufficient although no mention is made on the ballot that the subdivision is to participate in federal aid under the provisions of the National Industrial Recovery Act and/or the Federal Emergency Relief Act in the construction of the improvement for which the bonds are to be issued.

COLUMBUS, OHIO, January 12, 1935.

HON. GLENN W. MARRIOTT, *Prosecuting Attorney, Mansfield, Ohio.*

DEAR SIR:—The request of your predecessor for opinion reads as follows:

"Madison Township Board of Education of this county passed a resolution in the fore part of September declaring it a necessity to issue bond in the sum of Sixty Thousand (\$60,000 00) Dollars for the purpose of erecting a fireproof school building in East Mansfield. In said resolution it was stated that the decision to build such a building was governed largely because of the great need of a new school in the district and because of tentative offer or assurance that the labor for this project would be furnished by the Federal Emergency Relief Administration. The board at the time of the passage of said resolution had the verbal promise by the local relief officer that the labor would be furnished for this project.

A copy of this resolution was certified to the board of elections to submit the question of issuing bonds to the electors of said school district. No mention of federal participation was made in the suggested ballot in said resolution nor was there printed on the ballot submitted to the people on November 6th, any statement relative to said participation, although it was brought to the attention of the people in the district by printed circulars, advertising and a speaker's program.

On October 18, 1934, the board of education was notified by letter that the plan to furnish the labor on this project had been given tentative approval by Mr. Robert H. Randall, Superintendent, Works Department, Federal Relief Commission of Ohio.

On November 6th 592 people voted for the issue and 463 voted against the issue.

Your opinion is requested as to whether or not a vote of 65% was necessary to carry said bond issue, or the majority as set forth in Amended Senate Bill No. 403, 115 Ohio Laws at page 601."

Section 1 of Amended Senate Bill No. 403 of the 90th General Assembly, as amended by Amended Substitute Senate Bill No. 38 of the first special session, as amended by Amended Senate Bill No. 28 and Amended Senate Bill No. 102 of the second special session of the 90th General Assembly, provides certain exceptions to the Uniform Bond Act to enable subdivisions to participate in federal aid provided by the National Industrial Recovery Act and the Federal Emergency Relief Act. This section reads in part as follows:

"3. If the question of issuing any such bonds is submitted to the electors of any subdivision, such bond issue shall require only the affirmative vote of a majority of those voting upon the proposition.

* * * * *

5. The question of issuing such bonds may be submitted to the electors, notwithstanding that the approval of the project or projects to be financed thereby by the proper federal authorities or duly authorized representative thereof may not have been first obtained; but no such bonds shall be issued, whether under authority of an election or otherwise, excepting to the extent that the project or projects thereby to be financed shall, prior to the issue thereof, have received the approval of the proper federal authorities or duly authorized representative thereof nor in the case of public works projects provided by the 'national industrial recovery act' until a contract or contracts shall have been entered into between the proper authorities of the subdivision and the proper

federal authorities pursuant to the said 'national industrial recovery act.'

6. When and if the conditional approval by the proper federal authorities or duly authorized representative thereof shall have first been obtained for the project the provisions of section 2293-22 of the General Code, requiring the question of the issue of bonds to be submitted to popular vote only at a November election, shall be waived and such question may be submitted with the consent of the tax commission of Ohio to a popular vote at a primary election or at a special election called for that purpose.

7. The resolution declaring the necessity for such bond issue and setting forth the additional facts, as provided in section 2293-19, shall be certified to the county auditor at least thirty days prior to the election at which it is desired to submit such questions; thereupon, and more than twenty-five days prior to such election, the county auditor shall certify to the taxing authority the facts as set forth in said section 2293-19; and said taxing authority, if it desires to proceed with the issue of said bonds, shall, more than twenty days prior to such election, certify to the board of elections of the county its resolution together with the additional facts, as provided in section 2293-19. Such resolution may fix the maturity of the earliest installment not later than five years after the earliest possible date of maturity despite the prohibition contained in section 2293-12 of the General Code. Provided, however, that the failure of any such resolution to have a number or title shall in no case invalidate such bond issue.

8. The election on the question of issuing such bonds shall be held under the provisions of sections 2293-21, 2293-22, 2293-23 and 2293-23a of the General Code of Ohio, except that publication of notice of such election, if made four times in one or more newspapers of general circulation in the subdivision, shall not be required to be made once a week for four consecutive weeks, and the board of elections may include the question of such bond issue or issues upon a regular ballot on questions and issues, or prepare and use a separate ballot therefor, which shall be printed and ready for use of absent voters not less than ten days before the date of the election."

There is nothing in this statute which requires that the ballot state that federal aid is being procured to pay a portion of the cost of the project for which the bonds are to be issued. On the other hand, it provides that the election shall be held under the provisions of Sections 2293-21, 2293-22, 2293-23 and 2293-23a, General Code. Section 2293-23 provides that the form of the ballot shall be as follows:

"Shall bonds be issued by the (here insert name of subdivision) for the purpose of (here insert purpose of bond issue) in the sum of (here insert amount of bond issue) and a levy of taxes be made outside of the ten mill limitation, estimated by the county auditor to average (here insert number of mills) mills for a maximum period of (here insert longest maturity) years to pay the principal and interest of such bonds."

The form of ballot which the law provides shall be used does not require mention of federal participation in the construction of the improvement for which the bonds are to be issued.

Furthermore, this section of the act also provides certain restrictions for the issuance of bonds under such act, without the authority of an election, in excess of the net indebtedness limitations of the Uniform Bond Act "whether such bonds shall have been or may be voted." This apparently means that bonds may be issued to a certain extent in excess of debt limitations without necessity of a vote of the electors under this act, which bonds may have been voted under the provisions of the Uniform Bond Act.

One of the objections made to the bond issue of the city of Columbus in the case of *State, ex rel. vs. Ketterer*, 127 O. S. 483, was that the ballot contained no mention of the fact that the city was to participate in federal aid in the construction of the improvement for which the bonds were to be issued. While nothing was said in the opinion in this case concerning this particular objection, the court nevertheless held the bond issue valid.

I am of the opinion, therefore, that where the question of issuing bonds is submitted to the electors of a subdivision under the provisions of Section 1 of Amended Senate Bill No. 403 of the 90th General Assembly, as amended by Amended Substitute Senate Bill No. 38 of the first special session of the 90th General Assembly, as amended by Amended Senate Bill No. 28 and Amended Senate Bill No. 102 of the second special session of the 90th General Assembly, an affirmative vote of a majority of those voting upon the proposition is sufficient although no mention is made on the ballot that the subdivision is to participate in federal aid under the provisions of the National Industrial Recovery Act and/or the Federal Emergency Relief Act in the construction of the improvement for which the bonds are to be issued.

Respectfully,

JOHN W. BRICKER.

Attorney General.

3806.

CHILDREN'S HOME—BEQUEST OF PERSONAL PROPERTY THERETO
—ADMINISTERED EITHER BY COUNTY COMMISSIONERS OR
TRUSTEES OF HOME—BEQUEST TO TRUSTEES ADMINISTERED
BY THEM.

SYLLABUS:

1. *After a county children's home has been established and a bequest of personal property is made to the county children's home for the support of the use and benefit of such institution, either the county commissioners or the trustees of such institution, or both may accept and administer such bequest as they deem for the best interests of the institution consistent with the provisions and conditions of such bequest. (Opinions of the Attorney General, 1921, Vol. I, p. 604 modified.)*

2. *By virtue of the provisions of Section 3083, General Code, a bequest of personal property to the trustees of a children's home for the support or the use and benefit of such institution should be accepted and administered by the trustees of such institution as they deem for the best interests of the institution consistent with the provisions and conditions of such bequest.*

COLUMBUS, OHIO, January 12, 1935.

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

GENTLEMEN:—I am in receipt of your request for my opinion which reads as follows: