

The most serious question with respect to this title is raised by the will of Parmelia S. Grant shown on page 25, 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. Should she have more and should they survive her they would of course have an interest in this property. However, the affidavit shown on page 29 shows that Mrs. Jameson is now fifty-three years of age, and that she is and has been a widow since June 18, 1914. A contract of indemnity from Mrs. Jameson and her two children agreeing to protect the state from such a contingency is herewith enclosed. 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 enclosed certificate, are a lien. However, the vendors 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 Jennie D. Jameson, a widow, Don H. Jameson and wife, L. Jane Jameson, Bessie P. Johnson and husband, Harold Johnson, to the State of Ohio is submitted herewith.

It also appears from a copy of 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.

3887.

APPROVAL, BONDS OF EATON VILLAGE SCHOOL DISTRICT, PREBLE COUNTY, \$71,000.00.

COLUMBUS, OHIO, December 11, 1926.

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

3888.

TAXES AND TAXATION—PROCEEDS OF TAX LEVY UNDER PROVISIONS OF SECTIONS 5655-5, 5655-6, AND 5655-7 OF THE GENERAL CODE CAN BE APPLIED ONLY TO DEFICIENCIES SET OUT IN STATEMENT TO AUDITOR OF STATE.

SYLLABUS:

The indebtedness which can be paid by a tax levy and by an issue of notes under section 5655-7 of the General Code are those only which are set out in the certificate to the Auditor of State of the outstanding indebtedness in the several funds.

COLUMBUS, OHIO, December 13, 1926.

HON. JOHN N. DUGAN, *Prosecuting Attorney, New Lexington, Ohio.*

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

"One of our boards of education of this county, under House Bill No. 527, funded their indebtedness, one item of which was for transportation. At the time of the funding of the indebtedness the bills outstanding which they had any knowledge of were \$2,742.50. Since their indebtedness was funded and notes issued, further claims have come in for transportation amounting to \$1,761.75. The board has been paying transportation and are willing to pay this transportation had they sufficient funds.

Will you please advise whether the board shall now pay the bills in full for transportation which came in before the indebtedness was funded, or whether they shall use the amount funded and pay as far as it will go, that is, pay pro rata on each of the claims that came in after the indebtedness was funded, as well as those that came in before the indebtedness was funded? If not, what would you advise?"

Section 5655-5 of the General Code, a part of the so-called Baxter Bill, in part provides as follows:

"The accounting officer of any taxing district, * * * shall immediately upon the passage of this act, * * * certify to the Auditor of State, * * * (2) a showing in detail of the outstanding indebtedness of the several funds of said taxing district, * * * . -And whether represented by certificates of indebtedness, accounts payable or otherwise, with the dates of the maturities thereof; * * * Such statement shall be filed in the office of the county auditor and shall be in such form and accompanied by such additional information as the Auditor of State may prescribe and the Auditor of State shall have full power to make an audit of the books of any taxing district to determine the correctness of any such statement."

Section 5655-6 of the General Code in part provides:

"The Bureau of Inspection and Supervision of Public Offices shall examine and compile said statement and report any findings to the Auditor of State, who shall certify to each taxing district and to the county auditor in which said taxing district is located the amount of its net deficiency, if any, on December 31st, 1925, allocated between the several funds of said district."

Section 5655-7 of the General Code provides in part:

"The proceeds of said tax shall be applied to making up the aforesaid deficiency in the several funds in which they exist to the end that said deficiency shall be entirely paid on December 31st, 1921."

It will be noted that the deficiency certified to the Auditor of State provides that the outstanding indebtedness in the several funds shall be shown in detail, together with the dates of the maturities of such accounts, and section 5655-7 provides that the proceeds of the tax shall be applied to making up the aforesaid deficiency. Certainly the aforesaid deficiencies are the ones which are set out in detail in the statement to the State Auditor and as the certificate by the state officer permits a tax levy for the payment of the deficiencies aforesaid it is my opinion that the proceeds of the tax can be applied only to the deficiencies set out in the statement to the Auditor.

Respectfully,
C. C. CRABBE,
Attorney General.