

in encumbering funds for the purpose of meeting contractual obligations of the State for the use of such officers or departments, is authenticated by the signatures of T. J. Haley and C. W. Ullom, acting pursuant to the authority of a resolution of the Board of Directors of the Muskingum Watershed Conservancy District. Although this resolution of the Board of Directors of said Conservancy District does not, of course, give to the persons above named the status of state officers or agents, or give them any authority to contract on behalf of the state of Ohio, their signatures on this contract encumbrance record do have the effect of authenticating the fact that the Muskingum Watershed Conservancy District has contracted for the purchase of the particular property therein described and afford a sufficient predicate to the certificate of the Director of Finance that there is a sufficient unencumbered balance to the credit of the Muskingum Watershed Conservancy District under the appropriation made to said Conservancy District in and by House Bill No. 61 enacted by the 90th General Assembly under date of April 7, 1934; all of which is contemplated by and is in accordance with the agreement entered into by and between the Controlling Board and the Board of Directors of said Conservancy District with respect to the expenditure of the moneys appropriated by said act for the uses and purposes of the Conservancy District.

In this view and for the purpose above stated, this contract encumbrance record has been properly executed and the same shows that there is a sufficient unencumbered balance in the appropriation account covered by the moneys released by the Board of Control to pay the purchase price of the real property here in question, which purchase price is the sum of \$2,500.00. In this connection, it is noted that under date of December 5, 1934, the Controlling Board released from this appropriation account an additional sum of \$100,000, which is an amount sufficient to cover the purchase price of the real property here in question and of all other tracts of land which have been submitted to this office for consideration.

Subject to the exceptions above noted, the title to the above described property, of John F. Lapp and Martha E. Lapp, is approved, and the certificate of title; warranty deed, contract encumbrance record No. 11 and other files relating to this purchase are herewith enclosed for further appropriate action on your part and upon the part of the Auditor of State.

Respectfully,

JOHN W. BRICKER,

Attorney General.

3804.

WOMAN—OWNER OF COAL MINE MAY WORK THEREIN IF NOT
UNDER CONTRACT OF HIRE.

SYLLABUS:

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.

COLUMBUS, OHIO, January 12, 1935.

HON. JAMES BERRY, *Chief, Division of Mines, Columbus, Ohio.*

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

“On January 24, 1934, our inspector, * * *, visited a mine in Harrison County and found a woman in the mine employed at mining coal. Under Section 1008-1 of the General Code, the inspector ordered her to withdraw from the mine and ordered Mr. * * * who was then known as the operator, to not employ this woman further in such capacity. At that time she withdrew and considerable publicity was given to the action.

“On November 14, he found her again employed in this same mine. She alleged that she is a part owner of the mine.

“I will appreciate it if you will give me an interpretation on this section.”

Upon further inquiry as to whether or not the woman in question was working under a contract of hire or was merely operating her own property, you advised that as far as you could ascertain from the facts she was not under a contract of hire but was working on her own property and performing these services without being hired by her husband or any other person.

Section 1008-1, General Code, reads as follows:

“The employment of females in the following occupations or capacities is hereby prohibited, to-wit: as crossing watch-man, section hand, express driver, moulder, bell hop, taxi driver, jitney driver, gas or electric meter reader, ticket seller except between the hours of six o'clock a. m. and ten o'clock p. m., as workers in blast furnaces, smelters, mines, quarries except in the offices thereof, shoe shining parlors, bowling alleys, pool rooms, bar rooms and saloons or public drinking places which cater to male customers exclusively and in which substitutes for intoxicating liquors are sold or advertised for sale, in delivery service on wagons or automobiles, in operating freight or baggage elevators, in baggage handling, freight handling and trucking of any kind, or in employments requiring frequent or repeated lifting of weights over twenty-five pounds. Any violations of the provisions of this section shall be punished as provided in section 1011 of the General Code.”

It is to be noted that this section provides that “the employment of females * * * is hereby prohibited * * * as workers * * * in mines” and that “any violations of the provisions of this section shall be punished as provided in section 1011 of the General Code.”

Section 1011, General Code, provides that any person violating the provisions of the act shall “be fined not less than twenty-five dollars, nor more than two hundred dollars.” Therefore, Section 1008-1, General Code, is a penal section and must be strictly construed.

In using the language “the employment of females,” the Legislature meant that no one should employ a female to work in the occupations mentioned in that

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: