

be such, it succeeds prima facie merely to the treasurer's possessory title and as quasi trustee for the safe-keeping of such funds, and the burden is upon the bank, if it claims greater title, to show statutory authority and warrant to support its right to convert the funds to its own use."

The principle set forth in the Osborn case, supra, can be found in the case of *Crawford County vs. Strawn, Rec.*, 6 O. L. R. 309; 157 Fed. 49.

It follows under the foregoing authorities that, under the circumstances which you present, the relationship of debtor and creditor does not exist between the deputy commissioner and the bank. The deposit constitutes a special deposit and the bank holds such funds as trustee.

It is, accordingly, my opinion that when a deputy commissioner of motor vehicles deposits funds collected by him in the sale of motor vehicle license plates, in a bank as deputy commissioner, such funds are held by the bank in trust for the state, and in the event of the liquidation of such bank by the Superintendent of Banks, the state has a preferred claim to the extent of the balance of such deposit.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2224.

DISAPPROVAL, CONTRACT BETWEEN STATE OF OHIO AND ELECTRIC CONSTRUCTION AND MAINTENANCE COMPANY OF COLUMBUS, OHIO, FOR ELECTRICAL WORK ON PHYSICAL EDUCATION BUILDING AND EQUIPMENT, OHIO STATE UNIVERSITY, COLUMBUS, OHIO.

COLUMBUS, OHIO, August 11, 1930.

HON. A. T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This acknowledges receipt of your communication of August 9, 1930, enclosing contract documents between the State of Ohio and Electric Construction and Maintenance Company of Columbus, Ohio, for electrical work on Physical Education Building and Equipment, on the campus of Ohio State University.

Upon careful examination of said documents, I find that the contract cannot be entered into and approved by this office. It appears that the contracting corporation above noted submitted a bid on July 9, 1930, before the time set for receiving bids, based on the following figures:

Electrical Contract.....	\$7,200 00
Alternate A—Phys:	
To add portion of building designated "Alternate A," add....	215 00
Alternate B—Phys:	
To add portion of building designated "Alternate B," add....	137 00

Making a total of.....	\$7,552 00

Now Section 2319, General Code, provides in part as follows:

"On the day and at the place named in the notice, such owner shall open the proposals, and shall publicly, with the assistance of the architect, or engi-

neer, immediately proceed to tabulate the bids upon triplicate sheets, one of which shall be filed with the Auditor of State. *A proposal shall be invalid and not considered unless a bond, in the form approved by the state building commission with sufficient sureties, in a sum equal to the total sum of the proposal is filed with such proposal, nor unless such proposal and bond are filed in one sealed envelope. * * ** (Italics the writer's.)

From the above section it may be noted that it is mandatory for the bond accompanying the bid to be in an amount equal to the total sum of the proposal and that the section further provides that if the bond does not cover the total of the bid, the proposal shall be invalid.

An examination of the bond of The Seaboard Surety Company, submitted with the above bid, shows that it is in the penal sum of seven thousand, three hundred thirty-seven dollars (\$7,337.00). Obviously the bond does not cover the amount of the bid and therefore the bid was invalid and should not have been considered.

It is to be noted that in the "Notice to Bidders" it is stated:

"Forms of proposals and bond will be furnished from this office and said proposal and bond must in all respects conform to the laws of Ohio, *the bond being for the full amount of the bid.*" (Italics the writer's.)

Moreover, on page 5 of the "Form of Proposal" for this improvement, it is provided:

"Note: 1. The state form of contract bond, in the full amount of the above bid, must accompany this proposal to entitle it to consideration. * * *"

In view of the above statutory provision and regulations of the "Notice to Bidders" and "Form of Proposal," I am of the opinion that the bid of the Electric Construction and Maintenance Company is invalid and cannot be considered. Therefore, I am forced to disapprove the contract, and am returning to you herewith all documents submitted.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2225.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND WUELLNER AND THEADO OF COLUMBUS, OHIO, FOR COMBINED PLUMBING AND HEATING WORK IN SCHOOL BUILDING, OHIO REFORMATORY FOR WOMEN, MARYSVILLE, OHIO, AT AN EXPENDITURE OF \$7,194.00—SURETY BOND EXECUTED BY THE GLOBE INDEMNITY COMPANY OF NEWARK, NEW JERSEY.

COLUMBUS, OHIO, August 12, 1930.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, for the Department of Public Wel-