

taining the public utilities commission. The expenses of the Bureau of Motor Vehicles are paid from the annual license tax levied upon the operation of motor vehicles. Section 6291, General Code. Other statutory provisions of a similar nature exist in this and other states."

Upon similar reasoning, I conclude that when the state of Ohio through one of its administrative divisions is engaged in the proper exercise of a governmental function, such as the liquidation of a bank, the state is the "consumer" of articles purchased for use in performing such function, although the purchase price is paid from assets of a particular bank, the Division of Banks having title to such assets.

The above conclusion is supported by the decision in *Farkas vs. Fulton*, 18 Abs. 277 (Court of Appeals, Lucas County), motion to certify overruled by the Supreme Court March 27, 1935. In this case, it was held that the Superintendent of Banks is not liable for a tort committed by one of his employes while performing duties in connection with the liquidation of a bank in the possession of the superintendent. The court quoted with approval the following language from *Bennett vs. Green*, 156 Ga. 572, 579, 119 S. E. 620:

"The Superintendent of Banks, in taking charge of the affairs of an insolvent bank for liquidation, is the agent of the State. He acts for and in behalf of the commonwealth. His possession is that of the State, who is his principal."

The court in the *Farkas* case said further:

"We hold that the Superintendent of Banks is a state official, an arm of the state government, vested with such authority and powers and duties as are expressly granted to him by the statutes of Ohio * * *."

The court pointed out that the State had not consented to be sued on the tort.

In view of the foregoing and specifically answering your inquiry, it is my opinion that the State of Ohio is the "consumer" of goods purchased by the Superintendent of Banks of Ohio for use in the liquidation of a particular bank, within the meaning of Section 5546-2, General Code, although the purchase price is paid from the assets of the particular bank, under Section 710-97, General Code, and therefore such sales are not taxable under the Ohio Sales Tax Act (Sections 5546-1 to 5546-23, General Code).

Respectfully,
JOHN W. BRICKER,
Attorney General.

4:15.

APPROVAL, BONDS OF VILLAGE OF WILLOUGHBY, LAKE COUNTY, OHIO,
\$2600.00.

COLUMBUS, OHIO, APRIL 4, 1935.

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