one of the active depositaries must be so located, thus permitting banks in the county outside the county seat to bid, * * * * *"

The conclusion of my predecessor upon this point is based upon the same principles of statutory construction as have already been enunciated by the Supreme Court of Ohio in the cases of In re Allen, 91 O. S. 315 and In re Hesse, 93 O. S. 230. I concur in the reasoning expressed in the opinion from which I have quoted.

I am, therefore, of the opinion that, by virtue of Section 710-84, G. C. and Section 2715, G. C., unincorporated banks are eligible to bid for, and be designated as depositaries of, county funds and that unincorporated banks are privileged to bid for such a contract when bids have been advertised for by virtue of Section 2716, G. C., supra.

Respectfully,

GILBERT BETTMAN,

Attorney General.

55.

MOTOR VEHICLE—ALTERATIONS—CORRECTIONS ON BILL OF SALE REQUIRED ONLY WHEN SUCH VEHICLE IS SOLD OR TRANSFERRED.

SYLLABUS:

Neither the Commissioner of the Bureau of Motor Vehicles, nor the clerk of the Common Pleas Court has any authority to require any correction to be made in a bill of sale by which a motor vehicle is owned and held, or in the copy thereof on file with the clerk of the Common Pleas Court, by reason of the fact that the owner of such motor vehicle has installed a new motor therein or has made other installations, changes or alterations in such motor vehicle, as long as he continues to own, possess and use the same; but upon the sale or other transfer of such motor vehicle, the owner thereof is required to insert in the bill of sale executed by him a statement of such installation or of other changes and alterations in the finish, design or appearance of such motor vehicle which have been made within his knowledge.

COLUMBUS, OHIO, February 4, 1929.

HON. CHALMERS R. WILSON, *Commissioner, Bureau of Motor Vehicles, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your communication of recent date, which is as follows:

"This department receives numerous inquiries as to the proper manner of complying with the Bill of Sale Law when a change, such as installing a new motor block, is made in a motor vehicle.

Under the Ohio Law the clerk of courts is the responsible official for the correctness of Bills of Sale accepted for filing and in reply to such inquiries it is the policy of this department to advise that such corrections as are required by the clerk of courts should be made on the Bill of Sale. Our advice is given in this manner for the reason that there being no state

head to the office of the clerk of courts in the various counties, there does not exist any uniform manner in the handling of Bills of Sale, one county requiring a new Bill of Sale, another county making red ink corrections on the Bill of Sale already filed or another county having an affidavit made covering the change, which affidavit is made part of the Bill of Sale on file. However, it has been our contention that some form of correction should always be made in order that the individual may have a correct Bill of Sale covering the actual motor vehicle that he is operating.

We have had presented a case wherein a company operates a number of tractors which they state are operated at a very high speed in low gear, such operation requiring frequent replacement of the motor and they feel that our advice that it is necessary to correct a Bill of Sale each time such a change is made is a hardship.

It is our opinion that at all times a Bill of Sale should exist which will cover the motor vehicle as it is actually operating on the streets or highways and in order that this question may be definitely settled we would kindly ask that you furnish us with an official opinion on the questions involved."

In the consideration of the questions presented in your communication I do not deem it necessary to discuss at length the act providing for the registration of sales or changes in ownership of motor vehicles (109 O. L. 330), the provisions of which, amended from time to time, have been carried into the General Code as Sections 6310-3 to 6310-14, inclusive. Whether the same be a "motor vehicle" as defined by Section 6310-3, General Code, or a "used motor vehicle" as also defined by said section, a motor vehicle for the purpose of said act can be legally sold and transferred only by a bill of sale in duplicate, executed in conformity to Section 6310-5, General Code, or 6310-7, General Code. Section 6310-5, General Code, applicable to the sale or transfer of ownership of "motor vehicle" provides that the bill of sale therefor shall among other things "contain the name of the manufacturer or maker, the manufacturer's number, the engine or motor number, as well as any other numbers thereon, and the horsepower of such motor vehicle with a general description of the body thereof, the name and residence address of the purchaser, buyer, lessee, transferee, or person receiving such motor vehicle, together with a full account of any other number or marks on appliances attached thereto, which may identify or tend to identify such motor vehicle." Section 6310-7, General Code, which relates to the sale or transfer of ownership of "used motor vehicle," and which is more immediately applicable in the consideration of the questions here presented, provides as follows:

"Each corporation, partnership, association, or person, in all sales, conveyances, transfers, gifts, exchanges of, or transactions in which title to a 'used motor vehicle' passes, shall execute in the presence of two witnesses a 'bill of sale,' in duplicate, and deliver the same to the corporation, partnership, association or person purchasing, receiving or obtaining such used motor vehicle, at or before such sale, conveyance, transfer, gift, exchange or passage of title; such 'bill of sale' shall contain the name of the manufacturer or maker, the manufacturer's number, the engine or motor number as well as any other numbers thereon, the horsepower of such motor vehicle, a general description of the body, the type and model, together with any other numbers or marks on appliances attached thereto which may tend to identify such motor vehicle; the name or names and residence or residences of each and every bona fide owner or owners of such used motor vehicle, beginning

with the original or first purchaser of such used motor vehicle from the manufacturer or importer, or the direct agent or agents or either, and a record of each subsequent transaction, involving such used motor vehicle, down to the last owner, owners, or transferee from whom the corporation, partnership, association or person, selling, conveying, giving away or transferring derived title thereto; the residence or residences, so stated, shall be by city, village, township, county and state, together with the street and number or post office address, if any, of such former owner or owners, or, if there be no such addresses then by such description, designation, or information as may reasonably fix the place or places, residence or residences of such former owner or owners, and shall contain also the date and place where the ownership of said motor vehicle by the corporation, partnership, association or person selling, conveying, giving away or transferring the same began, and whether he acquired title thereto by purchase from such last owner or owners, or in what manner such title was acquired, and a statement of any and all changes and alterations in the finish, design or appearance of the said used motor vehicle which had been made within the knowledge of the person making the statement."

The purchaser or other transferee of a "motor vehicle" or a "used motor vehicle" often finds it necessary or convenient to install new parts in such motor vehicle, or to otherwise effect alterations or changes in the same. In such case there is nothing in the statutory provisions above referred to which requires such person who still owns and possesses the motor vehicle to note such installation of new parts or other alterations or changes in the motor vehicle, on the bill of sale by which he obtained title to the motor vehicle, or on a copy thereof filed with the clerk of the Common Pleas Court; nor in such case is either such owner or the clerk of the Common Pleas Court required to take any action with respect to such bill of sale. However, if after installing new parts in such motor vehicle or otherwise effecting changes or alterations therein, the owner sells or otherwise transfers the title to the motor vehicle to some other persons he is required to comply with the provisions of Section 6310-7, above quoted, and insert in the bill of sale of such motor vehicle to be executed and delivered by him to the purchaser or other transferee thereof, a statement of any and all changes and alterations in the finish, design or appearance of such motor vehicle, which had been made within his knowledge. In view of the purpose of the law here under consideration and the fact that the engine or motor number is one of the things required to be stated in the bill of sale of "used motor vehicles," I am inclined to the view that the installation of a new motor is a change in the design of a motor vehicle within the meaning of the last clause of Section 6310-7, General Code.

Section 6310-7, General Code, provides in detail with respect to the things to be contained in a bill of sale on the sale or other transfer of ownership of a "used motor vehicle," and neither your department nor the clerk of the Common Pleas Court has any right to read into the statutes any requirement with respect to bills of sale of motor vehicles that the Legislature has not seen fit to incorporate therein.

By way of specific answer to the question presented in your communication, I am of the opinion that neither the Commissioner of the Bureau of Motor Vehicles, nor the clerk of the Common Pleas Court has any authority to require any correction to be made in a bill of sale by which a motor vehicle is owned and held, or in the copy thereof on file with the clerk of the Common Pleas Court, by reason of the fact that the owner of such motor vehicle has installed a new motor therein or has made other installations, changes or alterations in such motor vehicle, as long as he continues to own, possess and use the same; but that upon sale or other transfer of

such motor vehicle, the owner thereof is required to insert in the bill of sale executed by him a statement of such installation or of other changes and alterations in the finish, design or appearance of such motor vehicle which have been made within his knowledge.

Respectfully,
GILBERT BETTMAN,
Attorney General.

56.

DRIVER—SCHOOL BUS—LIABILITY FOR NEGLIGENCE—RIGHT TO CARRY INSURANCE.

SYLLABUS:

The driver of a school wagon or motor van regularly employed for that purpose is liable in damages for the direct and proximate results of his negligence in the operation of said school wagon or motor van. The said driver may lawfully provide against such liability with liability insurance.

COLUMBUS, OHIO, February 4, 1929.

HON. J. L. CLIFTON, *Director of Education, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion as follows:

> "In a certain school district the school buses are owned by the board of education and the bus drivers are employed by the board. There is a desire to protect the children against accident by insurance. We understand that the board of education has no authority to purchase liability insurance. Can the drivers take out liability insurance to protect the children? In what respects are the drivers liable in case of accident?"

My predecessor had occasion to consider in several opinions the same question raised by your inquiry. On January 30, 1928, there was rendered Opinion No. 1632, the syllabus of which reads as follows:

> 1. The driver of a school wagon or motor van used in the transportation of pupils to and from a public school is required to execute a bond conditioned upon the faithful discharge of his duties as such driver.
>
> 2. A driver of a school wagon or motor van, used in the transportation of pupils to and from the public schools, is individually liable for injuries caused by the negligence of such driver in the operation of such wagon or motor van, even though such driver was at the time employed by a board of education and was engaged in the performance of a public duty required by law to be performed by such board of education. Such liability may be enforced in a civil action sounding in tort. In addition, under the holding of the Supreme Court of Ohio in the case of *United States Fidelity and Guaranty Company*, vs. *Samuels*, 116 O. S., p. 586; 157 N. E. 325, a driver of a wagon or motor van, used in the transportation of pupils to and from the public schools, together with his sureties, are liable on the bond for the negligent operation of the school wagon or motor van by such driver, in the performance of the duties for which he was employed, and such liability may