

received to secure the deposits of the board, but nevertheless the delivery of the securities was made by the bank and not by the board. The receipt also recites that it is executed in duplicate, one for the bank and one for the school district. It is quite obvious that where receipts are executed in duplicate, the holder of the securities would be justified in refusing to surrender them without a presentation and surrender of both of the receipts. This would necessarily involve an agreement between the depositary bank and the board as to the right of the board to look to the securities in question.

I deem such a possible situation as clearly objectionable. The hypothecated securities should be in the exclusive control or dominion of the board of education and available without the concurrence of any one else for the purposes for which the deposit was made. For this reason, I am of the opinion that the funds of the board of education in the case which you present are not properly protected by the delivery of the securities to another bank and their receipt in the manner set forth.

This conclusion should not be construed as indicating the impropriety of placing the hypothecated securities in some safe and proper place. I think it would be entirely proper for the board to keep these securities in a safety deposit box or deposit them with some safe institution. It would appear that under such circumstances the duty of the board to provide properly for the safe keeping of these securities had been properly discharged. This would however be a question of fact in each instance and it is unnecessary and improper to lay down any general rule as to liability. Any such arrangement, however consummated, should reserve the exclusive control and dominion over the hypothecated securities in the board of education. It is the lack of this essential element in the case which you present which forces me to the conclusion that the arrangement is improper.

You are therefore advised that the board of education in the instance set forth by you has not provided proper protection for the funds of the school district.

Respectfully,
EDWARD C. TURNER,
Attorney General.

582.

APPROVAL, NOTES OF SCHOOL DISTRICTS IN COSHOCTON AND
MONROE COUNTIES.

COLUMBUS, OHIO, June 7, 1927.

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

583.

DISAPPROVAL, ABSTRACT OF TITLE TO GUILFORD LAKE PARK LAND,
HANOVER TOWNSHIP, COLUMBIANA COUNTY.

COLUMBUS, OHIO, June 7, 1927.

HON. GEORGE F. SCHLESINGER, *Director of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my opinion encumbrance estimate No. 3976