

decessor was whether or not any interest was due to the State when public funds had been deposited in a bank over a period extending from December 1, 1923, to August 3, 1925. The average aggregate monthly deposits during that period were over \$70,000.00, and the average balance in the bank was a very substantial sum. Upon that statement of facts, the opinion held:

"It would seem clear that the bank in this case could not be heard to say that it did not know the character and source of the deposits made by the deputy registrar and would be liable in the first instance for any profits realized from the use of the moneys while on deposit. In view of the holding of the Supreme Court of Ohio in the case of *Bank vs. City of Newark*, 96 O. S. 453, this conclusion seems inescapable. Whether or not any profits were realized by the bank is a question of fact which, from the information at hand, I am unable to determine. Whether any profits were realized by the bank or not by reason of carrying this account it would be equally liable with the Secretary of State if in fact it is determined that the Secretary of State is liable for any interest by reason of his failure to deposit the moneys coming into his hands as Secretary of State in the State treasury in compliance with the law."

I do not believe that the conclusions set forth in the 1927 opinion are applicable to the situation which you present, providing the funds to be transmitted to the various counties do not remain in the Columbus banks for an unreasonable length of time, and providing further that these funds are deposited only for the purpose of facilitating their transmission to the local counties at the earliest possible date without there being established a substantial average balance. The conclusions hereinabove quoted from the 1926 opinion are predicated upon banks receiving funds "otherwise than for the purpose of immediate transmission".

I am advised that it has been the practice of the Commissioner of Motor Vehicles to make a report to the various counties every two weeks at which time a check is forwarded to cover motor vehicle license tax money received from residents of the respective counties. Since the statute is silent on the entire matter, it is my opinion that this practice does not amount to anything more nor less than the Commissioner of Motor Vehicles properly availing himself of the usual banking facilities of the State in the transmission of such funds, and the banks which hold such funds for a period of two weeks or less are not liable for interest thereon, in the absence of a contract providing for the payment of such interest.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1714.

APPROVAL, BONDS OF TIFFIN CITY SCHOOL DISTRICT, SENECA COUNTY—\$135,000.00.

COLUMBUS, OHIO, April 1, 1930.

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