

1552.

APPROVAL, NOTES OF EMPIRE VILLAGE SCHOOL DISTRICT, JEFFERSON COUNTY, OHIO—\$3,848.00.

COLUMBUS, OHIO, September 13, 1933.

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

1553.

SHERIFF—LIABLE ON BOND WHERE BANK FAILS WHEREIN HE HAS DEPOSITED PROCEEDS OF SALE OF REAL ESTATE IN PARTITION CASE—EXCEPTION TO LIABILITY WHEN.

SYLLABUS:

Where the sheriff of a county deposits the proceeds of the sale of real estate in a partition case in a bank which thereafter fails, the sheriff is liable on his bond for any loss sustained by reason of such bank failure with respect to that part of such proceeds as is payable in satisfaction of taxes on the real estate so sold.

*However, under the rule recognized and applied in the case of *Ikirt vs. Wells, Sheriff*, 13 O. C. C. (N. S.), 213, affirmed by the Supreme Court without opinion, 82 O. S. 401, the sheriff in such case is not liable for any loss so sustained with respect to that part of the proceeds of such sale which is to be distributed to the parties entitled thereto as provided for in section 12039, General Code.*

COLUMBUS, OHIO, September 14, 1933.

HON. JOSEPH J. LABADIE, *Prosecuting Attorney, Ottawa, Ohio.*

DEAR SIR:—This is to acknowledge the receipt from you of a communication which reads as follows:

“I would like your opinion on the following question which has arisen in my county.

FIRST—A partition suit was filed by the heirs at law for partition of real-estate in this county. Under order of Court a deed was executed to one of the heirs who elected to take the premises at the appraisalment thereof. The money was paid into the Sheriff's office of this county on or about November 14th, 1932, including tax payment of 1932.

The Auditor of Putnam County had compiled the tax rate for the year 1933 and same had been approved by the State Department at Columbus on or before November 1st, 1932. The tax duplicate for Blanchard Township where the land was situated, had been completed before November 14th, 1932 and the tax receipts written. The sheriff tendered the tax money to the Treasurer of Putnam County for payment of these taxes, but the Treasurer refused to accept the money until his entire tax duplicate was completed and until he had opened his tax collection books for payment.