

charge of the duties of his office. Such bond, with the approval of the proper officials and the oath of office endorsed thereon, shall be deposited with the Auditor of State and kept in his office."

It would be no defense to an action on the official bond to say that the act of the Secretary of State in establishing branch agencies, being unauthorized, was also unofficial, and hence not covered by his bond, because, as Judge Williams so aptly said in *Greenville v. Anderson*, 58 O. S. 478, "If acts of an officer are to be regarded as unofficial whenever they are illegal, an official bond could serve no useful purpose, for there can be no breach so long as he performs his duties according to law. It is only when some duty has been omitted or disregarded or improperly or illegally performed that a liability can arise." See also, *State v. McKinnon*, 15 C. C. (N. S.) 1, 6, where the court say that "It is too narrow a construction of an official bond to hold that it does not include liability for the consequences for illegal acts."

In my opinion, the conclusions cannot be escaped that if the Secretary of State established branch agencies outside of Columbus on and after January 2, 1920 (the effective date of the amendatory act of December 16, 1919, *supra*), for the purpose of receiving applications for the registration of motor vehicles and collecting annual license taxes, he acted without authority of law; that he is liable to account to the state for license taxes paid to his self constituted and appointed agents by registrants for the use of the state maintenance and repair fund on and after said date; and that failure to account therefor constitutes a breach of his official bond.

Respectfully,

C. C. CRABBE,

Attorney General.

202.

APPROVAL, BONDS OF JEFFERSON COUNTY, \$24,500, FOR STREET IMPROVEMENT, VILLAGE OF AMSTERDAM.

COLUMBUS, OHIO, March 29, 1923.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

203.

APPROVAL, BONDS OF VILLAGE OF MADISON, LAKE COUNTY, \$1,250, TO ACQUIRE AND EQUIP MOTOR FIRE TRUCK FOR FIRE DEPARTMENT.

COLUMBUS, OHIO, March 29, 1923.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.