

(12) To exercise general custodial care of all real property of the state.

Nothing in this section or in Sections 154-37 or 154-41 of the General Code shall interfere with the power of the adjutant general to purchase military supplies, or with the custody by the adjutant general of property leased, purchased or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories, or with the director of highways in preparing plans and specifications for and constructing such buildings as he may require in the administration of his department.

* * *

I have no hesitancy in saying it was the intent and purpose of the Legislature to repose in the Department of Public Works all those functions with respect to the custody and control of the real property of the state, including the canal lands. In view of the fact that the creation of the two departments was subsequent to the special act authorizing the relinquishment of the canal lands, I believe that the authority to perform on behalf of the state those functions enumerated in the special act was intended to be vested by the Norton-Edwards act in the Superintendent of Public Works, as Director of the Department of Public Works, since the functions therein enumerated pertain peculiarly to subjects over which the Department of Public Works has jurisdiction.

You are accordingly advised that official communications addressed to the City of Cincinnati, with respect to the relinquishment of the surplus Miami and Erie canal lands should be signed by you as Superintendent of Public Works of Ohio, as Director of the Department of Public Works.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2749.

DEPOSITARY BOND—MAY BE GIVEN BY BANK IN ADDITION TO OTHER SECURITIES AS SECURITY FOR FUNDS OF BOARD OF EDUCATION.

SYLLABUS:

School district depository banks are authorized under the provisions of Sections 7605 and 7607, General Code, as amended by the 87th General Assembly, to secure the deposit of school funds therein by the giving of a good and sufficient bond signed by either a surety company or private persons, or the deposit of the classes of securities enumerated in the said statutes.

COLUMBUS, OHIO, October 17, 1928.

HON. DEANE M. RICHMOND, *Prosecuting Attorney, London, Ohio.*

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

“I respectfully request your opinion upon the following questions:

The last Legislature amended G. C. 7605 to read in part as follows:

‘Such bank or banks shall give a good and sufficient bond, or other interest bearing obligations of the United States or those for the payment of

principal and interest of which the faith of the United States is pledged, including bonds of the District of Columbia; bonds of the State of Ohio, or county, municipal, township or school bonds, etc.'

Under the above section can a bank legally give a personal bond to a Board of Education with private sureties thereon?

In the event that the above question is answered in the negative, I request that you give your opinion on the question, Can a Board of Education recover on a bond accepted by them with private sureties thereon, said bond having been accepted since the above statute was amended?"

By reason of an error of the printer in printing House Bill No. 388 of the 87th General Assembly (112 O. L. 195) the language of Sections 7605 and 7607, General Code, was rendered so ambiguous, with reference to the kinds of security which depository banks were authorized to give to secure the deposits of school district funds, as to render it necessary to resort to judicial construction to make the language intelligible.

In an opinion rendered by this office under date of October 31, 1927, Opinions of the Attorney General for 1927, Vol. III, page 2164, it was held:

"When a board of education designates a bank or banks as depositories for the funds of the school district, such bank or banks may at the option of the board of education, secure the deposits of public funds by the giving of a good and sufficient bond, or the deposit of the classes of securities enumerated in Sections 7605 and 7607, General Code, as amended by the 87th General Assembly."

I do not deem it necessary to repeat here my reasons for the conclusions reached in the aforesaid opinion, and will therefor refer you to the opinion itself, in which the history of the legislation and the authorities relied upon are reviewed.

Inasmuch as there is no provision of law requiring banks when giving bonds to secure deposits of public funds, to furnish a bond signed by a surety company, we must conclude that inasmuch as such deposits may be secured by the giving of a "good and sufficient bond" such "good and sufficient bond" may be signed by a surety company or by private sureties.

I am therefore of the opinion, in specific answer to your question, that a depository bank may secure the deposit of school funds therein, by the giving of a good and sufficient bond; and that such bond may be the bond of a surety company or may be a bond signed by private persons. I am further of the opinion that recovery may be had in case of default, whether the bond be signed by a surety company or private persons, and whether the bond had been given and accepted either before or since the enactment of Sections 7605 and 7607 of the General Code, as contained in House Bill No. 388, of the 87th General Assembly.

Respectfully,
EDWARD C. TURNER,
Attorney General.