

like manner as refunders of other erroneous payments to the county treasurer are made.

Your third inquiry is as to whether the county treasurer should pay interest to the heir by reason of his retention of the funds. Keeping in mind that interest is of two kinds: first, that which is given by reason of the contract providing for the same; this is usually referred to as "contract interest"; second, that which is given by way of damages by reason of delay in the payment of an obligation; this is usually referred to as "damage interest." It is evident that no contract interest could be due from the county to the heir, unless the statute requires it to be paid, for the county treasurer has no authority to enter into a contract to pay such interest. I have not found any statute in Ohio which expressly requires or authorizes the county treasurer to pay interest on funds wrongfully paid into the county treasury.

There is a general rule of law that funds in the custody of the court whether paid into court for the purpose of litigating the ownership or otherwise, do not bear interest. *Franklin Bank vs. Burns*, 84 O. S. 12; *Lentz vs. Fritter*, 92 O. S. 186.

It could hardly be said that there was any wrongful detention of the funds in question when they were held by order of the court and payment had not yet been demanded by the heir.

Specifically answering your inquiry it is my opinion that:

1. The provisions of former Section 8579, General Code, since repealed, did not cause the title to a decedent's personal property to escheat to the state, when there was a living heir at the time of the demise even though he may be unknown to the administrator at the time of the closing of the administration proceedings.

2. When an administrator has filed his final account and has made a final distribution of the assets of a decedent's estate, by paying the residue of the funds in his hands to the prosecuting attorney as escheated to the state, pursuant to the provisions of former Section 8579, General Code, (since repealed) which funds have been paid into the general fund of the county where they still remain, if it be made to appear to the satisfaction of the probate court that there is a living heir of the decedent, the court may, pursuant to the authority of Section 11634 et seq., General Code, vacate the former order of the court and order the funds paid to the heir.

3. There is no provision of law authorizing the payment of interest by the county treasurer on funds paid to him as escheated but subsequently claimed by an heir.

Respectfully,

JOHN W. BRICKER,

Attorney General.

2258.

APPROVAL, CONTRACT BETWEEN THE DIRECTOR OF HIGHWAYS
AND THE COUNTY OF SUMMIT FOR THE IMPROVEMENT OF A
PORTION OF STATE HIGHWAY NO. 16 IN THE CITY OF AKRON.

COLUMBUS, OHIO, February 5, 1934.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted a contract between the Director of Highways

and the County of Summit covering the improvement of a portion of State Highway No. 16 in the City of Akron covering a distance of 2,840 lineal feet.

Finding said contract in proper legal form, I have accordingly endorsed my approval thereon and return the same herewith.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2259.

APPROVAL, CONTRACT FOR HIGHWAY IMPROVEMENT IN THE CITY
OF ZANESVILLE, MUSKINGUM COUNTY, OHIO.

COLUMBUS, OHIO, February 5, 1934.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted a contract between the Director of Highways and the City of Zanesville covering the improvement of a portion of state Highway No. 1 in the City of Zanesville covering a distance of .566 mile.

Finding said contract in proper legal form, I have accordingly endorsed my approval thereon and return the same herewith.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2260.

APPROVAL, TWO CERTAIN FORMS OF LICENSE AGREEMENT IN
CONNECTION WITH PROPOSED CONSTRUCTION WORK ALONG
THE SHORE LANDS OF LAKE ERIE.

COLUMBUS, OHIO, February 5, 1934.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of your recent communication submitting for my examination and approval two certain forms of license agreement to be signed by littoral owners of uplands on Lake Erie in connection with proposed construction work along the shore lands of Lake Erie for the purpose of preventing erosion of such lands. The forms submitted have been designated by you as forms A and B, respectively.

In view of the fact that in a letter to you under date of January 29, I discussed the fundamental requirements with respect to license agreements of this kind, I do not deem it necessary to extend the discussion with respect to the forms you have submitted. The form described by you as form B is eminently satisfactory and the same is recommended for use in securing the consents of property owners in connection with this erosion prevention project. With one exception, the form designated by you as form A is likewise satisfactory, although the same is not quite as comprehensive as the other form above referred to. Inasmuch as a license of this kind is in its nature a personal matter not subject