

have been made, and the receipt or acquittance of such minor shall be a valid and sufficient release and discharge for such deposit or any part thereof to the trust company."

It was held in this case that such deposit did not create a trust in favor of a minor. At page 927 the court said:

"It appears to be a clear recognition of the right of a minor, in the lawful possession of his own money, to deposit it with a trust company and withdraw it as though he were of full age."

It would seem that any deposit contract of a minor which is free from fraud would be one beneficial to the infant, and that a deposit in a bank would merely make the bank a creditor of the minor to the extent of the fund deposited. The bank's obligation would be to hand back money to its customer or pay it to his order. I can see nothing in such arrangement that would be detrimental to the infant's interest in any way.

In the light of the foregoing authorities, it is my opinion that under Section 710-119, General Code, when an account is opened in any bank by or in the name of a minor, and the fund is withdrawn by the minor himself by a withdrawal slip or some other sort of a receipt or acquittance, such as a check payable to a third person, the bank paying such instruments is discharged from liability on such payments in the same manner as if such minor were of legal age.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

3093.

COUNTY FUNDS—BANK MESSENGER—AGENCY MAY BE PAID FOR TRANSPORTING COUNTY FUNDS IN ARMORED CAR FROM COUNTY TREASURER'S OFFICE TO DEPOSITORY BANK—CONTRACT TO INDEMNIFY TREASURER AGAINST LOSS BY THEFT, EMBEZZLEMENT OR OTHERWISE.

SYLLABUS:

County funds may be expended to pay a so-called bank messenger agency for transporting county monies in an armored car from the county treasurer's office to a depository bank under a contract providing

that the county treasurer shall be indemnified against loss by theft, embezzlement or otherwise.

COLUMBUS, OHIO, October 14, 1938.

HON. WILLIAM A. AMBROSE, *Prosecuting Attorney, Youngstown, Ohio.*

DEAR SIR: This will acknowledge the receipt of your recent communication. You requested an opinion as to whether or not the county treasurer may enter into a contract providing for the transfer of county funds in an armored car from the treasurer's office to various banks where such funds are to be deposited. You state that such bank messenger contracts provide full protection for the safe transfer of such funds and indemnity to the treasurer in case of loss by theft, embezzlement or otherwise.

Up to 1929 the opinions issued from this office held that there was no authority in the treasurer or county commissioner to pay for theft and burglary insurance contracts out of county funds. Until that date there was no code section authorizing the treasurer and county commissioners to purchase such insurance. The following paragraph quoted from an opinion of the Attorney General for 1927, (Vol. II, p. 876) explains the view then taken:

"Inasmuch as the county itself incurs no risk if the county commissioners as their duty requires, have received from the treasurer a proper and sufficient bond to cover the liability of such treasurer, it would clearly follow that unless they were specifically authorized so to do, which they are not, they could not expend county funds for the protection of the treasurer against possible loss to him.

"It is the duty of the county commissioners to protect the county by securing this bond from the treasurer, but the treasurer himself, if he feels the necessity therefor, may take such means as he thinks proper to protect himself against the dangers incident to possible forgery or burglary."

In 1929, however, Section 2638-1 of the General Code was made effective. This section changed matters by expressly authorizing burglary and robbery insurance as follows:

"Upon request of the county treasurer of any county, the county commissioners of such county may authorize the county treasurer to procure insurance against any loss of public funds or securities, in the custody of the county treas-

urer, by burglary or robbery. The amount of insurance to be procured shall be in such sum as may be agreed upon by the county treasurer and the county commissioners. All costs of such insurance shall be paid by the county as provided in Section 2460 of the General Code."

You have not enclosed a copy of the contract in question. However, you state that it provides indemnity against loss by theft, embezzlement, etc. In view of these provisions it seems to be an insurance contract, and under the wide authority given in Section 2638-1, supra, to procure insurance against *any loss* of public funds or securities such a contract does come under the authority given in that section. Moreover, since the treasurer is charged by law with the care and keeping of funds in his custody, the power to pay expenses incurred in transporting these funds is necessarily implied.

In view of these facts it is my opinion that county funds may be expended to pay a so-called bank messenger agency for transporting county monies in an armored car from the county treasurer's office to a depository bank under a contract providing that the county treasurer shall be indemnified against loss by theft, embezzlement or otherwise.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

3094.

APPROVAL—CONTRACT, STATE OF OHIO, THROUGH DIRECTOR OF PUBLIC WORKS, FOR BOARD OF TRUSTEES, MIAMI UNIVERSITY, OXFORD, OHIO, WITH HARVEY E. HEISTAND, EATON, OHIO, ARCHITECT, FOR SERVICES, COST OF AN ADDITION TO UNIVERSITY HOSPITAL, ENCUMBRANCE RECORD No. 1672, AMOUNT \$2,374.05.

COLUMBUS, OHIO, October 14, 1938.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You have submitted for my approval a contract by and between the State of Ohio, acting by Carl G. Wahl, Director of Public Works, for and on behalf of the Board of Trustees of Miami University, Oxford, Ohio, and Harvey H. Heistand, Eaton, Ohio, Archi-