

made liable by statute or by the provisions of his bond to pay over moneys which come into his possession by virtue of his office, even though they may be lost without his fault. But it hardly seems consonant with sound principles of equity and justice to hold over a public officer a rule so strict unless the statute or the bond of the officer require it."

Since the holding in this case has not been altered or modified by subsequent decisions of the Supreme Court, it follows that the law as therein established controls as to the liability of a sheriff for loss of money in his hands arising from the operation of Sections 12039, et seq., General Code, relative to partition suits.

In view of the provisions of Section 2842 and the bond required in Section 2824 as interpreted by the case of *Seward vs. Surety Co.*, I am of the opinion that a sheriff of a county is liable for the return of moneys received by him in his official capacity unless the same is prevented by an act of God or a public enemy.

By authority of the case of *Ikert vs. Wells*, 13 O. C. C. (N. S.) 213, affirmed 82 O. S. 401, partition moneys arising by operation of Sections 12039, et seq., General Code, are private moneys and a sheriff is not personally liable for loss caused thereto by reason of their deposit in a solvent bank which bank later became insolvent.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4234.

APPROVAL, NOTES OF RUSHCREEK RURAL SCHOOL DISTRICT, FAIRFIELD COUNTY, OHIO—\$7,000.00.

COLUMBUS, OHIO, April 6, 1932.

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

4235.

APPROVAL, NOTES OF STOW TOWNSHIP RURAL SCHOOL DISTRICT, SUMMIT COUNTY, OHIO—\$10,000.00.

COLUMBUS, OHIO, April 6, 1932.

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

4236.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND THE STRUCK CONSTRUCTION COMPANY, FOR EXTERIOR WORK FOR THE STATE OFFICE BUILDING, AT AN EXPENDITURE OF \$159,900.00—SURETY BOND EXECUTED BY THE SEABOARD SURETY COMPANY.

COLUMBUS, OHIO, April 6, 1932.

HON. F. W. MOWREY, *Executive Secretary, State Office Building Commission, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the State Office Building Commission, duly appointed under authority of Section 1 of House Bill No. 17 of the 88th General Assembly, passed March 14th, 1929 (113 O. L. 59), and The Struck Construction Company of Louisville, Kentucky, and Cincinnati, Ohio.

This contract covers the construction and completion of contract for exterior work for the State Office Building, as set forth in Item 1 of the form of proposal dated February 25th, 1932. Said contract calls for an expenditure of One Hundred Fifty-nine Thousand, Nine Hundred (\$159,900.00) Dollars.

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. It is to be noted that the Controlling Board's approval of the expenditure is not required under the law appropriating the money for this contract. In addition, you have submitted a contract bond upon which the Seaboard Surety Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law, and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

A certificate from the Secretary of State showing that the above contracting foreign corporation is authorized to do business in Ohio has been filed.

Furthermore, it appears that the Governor has approved all the acts of the Commission in accordance with Section 1 of House Bill No. 17, 88th General Assembly, heretofore mentioned.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4237.

ELECTION LAW—CANDIDATE FOR CORONER—UNREGISTERED PERSON NOT ENTITLED TO HAVE HIS NAME APPEAR ON BALLOT AT PRIMARY ELECTION.

SYLLABUS:

1. *Where a person residing in a registration precinct has filed a declaration of candidacy and is not registered as an elector, he is not entitled to have his name appear on the ballot of his party at the primary election as a candidate for coroner.*

2. *In such a case the board of elections has the authority to reject and refuse to act upon the declaration of candidacy.*

COLUMBUS, OHIO, April 7, 1932.

HON. ERNEST M. BOTKIN, *Prosecuting Attorney, Lima, Ohio.*

DEAR SIR:—I acknowledge receipt of your communication which reads as follows: