

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.*