

at nearly the same time.' 1 Lewis' Sutherland Statutory Construction (2d Ed.), Section 268."

With respect to the questions presented in your communication, it would seem, therefore, that with respect to the agents of domestic casualty companies they may be qualified by proceeding under the provisions of section 654-1, General Code, and that as to such agents the provisions of section 644, General Code, do not apply.

In the foregoing discussion no comment has been made upon the wisdom or unwisdom of a legislative policy which requires the licensing of all types of insurance agents except the one here under consideration. It is difficult to see the justification for a discrimination of this character, but where the legislative intent is clear, as it seems to be in this case, there remains nothing but to carry out that intent if it can be accomplished without a violation of constitutional rights.

It has been urged in briefs that have been submitted to me that, if it be the fact that agents of domestic casualty companies need not be licensed, the exception is unconstitutional as being a denial of the equal protection of the law. While there is much force to this argument, I have not felt that I could, with propriety, address myself to this phase of the problem. It has been the uniform policy not only of myself but of my predecessors in office to refrain from expressing views upon the constitutionality of existing laws, but to leave these questions to the courts.

Our plan of government divides public functions into three departments, namely, the legislative, executive and judicial. It is the function of the legislative arm to pass the laws, of the executive arm to administer the laws, and of the judicial arm to interpret the laws. Consequently, it has always been exclusively the function of the judiciary to hold unconstitutional enactments of the legislative branch. It has seemed to follow that any officer of the executive branch should assume the constitutionality of any action by the legislative branch until the courts have spoken to the contrary.

It is for these reasons that the uniform office policy to which I have referred has been adopted, and I feel that, in conformity thereto, it would be an impropriety for me to express any conclusions upon the constitutional question that may be involved.

Accordingly, though realizing the questionableness of the legislative policy and the cogency of the arguments advanced upon the constitutional question, I feel constrained to reaffirm the conclusions already expressed in Opinion No. 3437, addressed to you under date of July 16, 1931.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

3891.

APPROVAL, BONDS OF MEIGS TOWNSHIP RURAL SCHOOL DISTRICT,  
MUSKINGUM COUNTY, OHIO—\$800.00.

COLUMBUS, OHIO, December 28, 1931.

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