

by the enactment of proper laws." The conclusion of the court was that the act of the legislature in placing assistants as above in the unclassified civil service "is not inconsistent with constitutional requirements."

From the cases above cited and without extended discussion, it is my opinion that the following conclusions are evident:

1. The constitutional requirement (Section 10, Article XV of the Ohio Constitution) is not self-executing.

2. It was left to the legislature by proper laws to place civil service in Ohio into practical operation.

3. It is within the authority of the legislature to place particular positions within the classified or unclassified divisions of the civil service as their discretion and the nature of the positions would dictate.

I therefore conclude and it is my opinion that paragraph 7 of Section 3 of Amended Substitute House Bill No. 91 of the Ninety-third General Assembly is a valid exercise of legislative authority and that the payroll for persons appointed to positions pursuant thereto should be approved as provided by law.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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957.

CONTRACT — STATE WITH H. W. HOLT, CONSTRUCTION AND COMPLETION, VAN BUREN LAKE, ALLEN TOWNSHIP, HANCOCK COUNTY.

COLUMBUS, OHIO, July 28, 1939.

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

DEAR SIR: You have submitted for my examination and approval a contract between the State of Ohio, acting through you as Director of the Department of Public Works for the Department of Agriculture, Division of Conservation, and H. W. Holt, of Columbus, Ohio, for the construction and completion of Van Buren Lake, Allen Township, Hancock County, Ohio, according to the drawings and specifications on file in the office of the Auditor of State. This contract calls for an expenditure of \$18,718.91.

You have submitted the following papers and documents in this connection: Contract encumbrance record No. 32; tabulation of bids; notice to bidders; proof of publication; recommendations of Don Waters, Commissioner, Division of Conservation and Natural Resources; Controlling

Board's Release; Workmen's Compensation Certificate showing a compliance by H. W. Holt with the laws of Ohio relating to Workmen's Compensation; Form of proposal containing the contract bond signed by the Seaboard Surety Company; its power of attorney for the signer; its certificate of compliance with the laws of Ohio relating to surety companies.

Finding said contract in proper legal form, I have noted my approval thereon, and same is transmitted herewith to you, together with all other papers submitted in this connection.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

958.

COUNTY RECORDER—WHERE DEED, ABSOLUTE CONVEYANCE OF LAND, DOES NOT BEAR ENDORSEMENT OF COUNTY AUDITOR AND IS PRESENTED WITHOUT FILING FEE—RECORDER WITHOUT AUTHORITY TO ACCEPT FOR FILING AND RECORDING; TO MAKE ENTRY ON REGISTER AND RETURN INSTRUMENT TO PRESENTER; NO OBLIGATION TO DELIVER SUCH DEED TO AUDITOR FOR TRANSFER—REFUSAL—NO LIABILITY, SUIT ON OFFICIAL BOND.

*SYLLABUS:*

1. *If a deed of absolute conveyance of land which does not bear the endorsement of a county auditor is presented to the county recorder with the proper filing fee, the latter is without authority to accept such deed for filing and recording.*

2. *The county recorder has no authority to accept such deed, endorse a file number thereon, enter same in his daily register and then return the instrument to the presenter with the understanding at a later date it will be properly endorsed by the county auditor and returned for recording.*

3. *Whenever such deed is presented to a county recorder, he is under no obligation to accept and take same to the county auditor for transfer.*

4. *The refusal by a county recorder to accept such deed which does not bear the county auditor's endorsement would not render him liable to suit on his official bond.*

COLUMBUS, OHIO, July 28, 1939.

HON. NORTON C. ROSENTRATER, *Prosecuting Attorney, Port Clinton, Ohio.*

DEAR SIR: This will acknowledge receipt of your request for my opinion on the following: