

paid out by the State of Ohio under and on account of contracts entered into by the state for the construction of said improvement.

You have also submitted evidence showing that the controlling board has duly consented to and approved the expenditure of fifteen thousand dollars for architectural services in connection with this improvement.

You have further submitted encumbrance estimates in favor of S. P. Stewart & Son bearing numbers 4871 and 4831 in the total sum of thirteen thousand seven hundred fifty dollars and bearing the certificates of the director of finance to the effect that there are unencumbered balances legally appropriated sufficient to pay the same.

Finding said contract in proper legal form I have endorsed my approval thereon and hereby return the same to you together with all other papers submitted in this connection.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1285.

OFFICES INCOMPATIBLE—VILLAGE MAYOR AND CITY CLASSIFIED
SERVICE EMPLOYEE.

SYLLABUS:

The mayor of a village must necessarily take part in politics, and therefore he cannot under the provisions of Section 486-23, General Code, hold the office of village mayor while holding a position in the classified service of a city.

COLUMBUS, OHIO, December 11, 1929.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This is to acknowledge receipt of your recent communication, which reads:

“Section 486-23 G. C., prohibits any officer or employe in the classified service of the state, the several counties, cities and school districts, from taking part in politics, other than to vote as he pleases and to express freely his political opinions.

Section 486-28 G. C., provides a penalty for the violation of provisions of the Civil Service Act.

Question: May a person who is in the classified service of a city, but is not a resident of such city, legally hold the office of mayor in the village in which he resides, at the same time?”

In connection with your inquiry your attention is directed to Opinion No. 544, rendered to your Bureau under date of June 19, 1929, in which it was held as disclosed by the syllabus that:

“A member of the city police department who is in the classified civil service may not legally hold the office of a member of the city board of health at the same time, without violating the provisions of Section 486-23, General Code, which prohibit any officer or employe in the classified civil service from taking part in politics other than voting as he pleases and expressing freely his political opinions.”

The conclusion reached in the opinion above mentioned was based upon the proposition that one holding a public office by election or appointment, in the performance of the duties thereof, must necessarily take part in politics. The following is quoted from the body of said opinion:

“It is my view that any man is in politics who is appointed by any official administering government, and surely one who is elected by the people. It would, therefore, appear that a member of the city board of health appointed by the mayor, in performing the duties of his office is doing a great deal more in the way of political activity than merely voting as he pleases and expressing his political opinions.”

It is believed that the reasoning in the opinion above mentioned, by analogy, would apply with equal force to the situation you now present.

Based upon the foregoing and in specific answer to your inquiry, you are advised that a person who is in the classified service of the city may not legally hold the office of mayor of a village for the reason that the holding of such office would result in his taking part in politics in violation of the provisions of Section 486-23, General Code.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1236.

APPROVAL, BOND FOR THE FAITHFUL PERFORMANCE OF HIS DUTIES
AS RESIDENT DISTRICT DEPUTY DIRECTOR—A. W. BROWN.

COLUMBUS, OHIO, December 12, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a bond for the penal sum of five thousand dollars (\$5,000.00) upon which the name of A. W. Brown appears as principal and the name of The Ohio Casualty Insurance Company of Hamilton, Ohio, appears as surety.

Said bond is conditioned for the faithful performance of the duties of said principal as Resident District Deputy Director assigned to Ross County.

Finding said bond to have been executed in proper legal form, I have endorsed my approval thereon, accordingly, and return the same herewith to you.

Respectfully,

GILBERT BETTMAN,
Attorney General.