

the enactment of municipal legislation, the general assembly used the term 'legislative duties,' meaning to include the clerk of the city council in the unclassified service."

With reference to the clerk of a city council, therefore, it is my opinion that such clerk is within the unclassified civil service.

As stated above, the clerk and other employes which would include an assistant clerk, are elected by council which fixes their duties, bonds and compensation. The status of an assistant clerk will therefore depend entirely upon whether or not council has fixed the duties of such assistant clerk as legislative in character or otherwise. If council has fixed the duties of such assistant clerk as purely legislative in character he would be by the provisions of sub-section 5 of Section 486-8a, General Code, be in the unclassified civil service. On the other hand, if council has imposed upon such assistant clerk duties which are not legislative in character, it is my opinion that he would not come under the exemption of sub-section 5 above referred to, and would be in the classified civil service.

In this connection I call your attention to an opinion of the Attorney General appearing in 1918 Opinions of the Attorney General, Vol. II, page 1645, where it was said that a city council may employ a person to obtain waivers of special assessment limitations from owners of property and may fix the compensation of such person at so much per hour; that the purpose of obtaining such waivers was to lay the foundation for legislation seeking to make the improvement in question and to make an assessment in excess of the amount limited by statute.

For the reasons above stated, it is my opinion that the position of assistant clerk of a city council is or is not within the unclassified civil service depending upon whether said council has fixed the duties of such assistant clerk as legislative in character or otherwise. If such duties are legislative, such position is within the unclassified service under the provisions of sub-section 5 of Section 486-8a, General Code.

Respectfully,

EDWARD C. TURNER,
Attorney General.

327.

USED MOTOR VEHICLE—JUNK DEALERS MUST HAVE RECEIVED A PROPER BILL OF SALE BEFORE THEY CAN DELIVER THE NECESSARY BILL OF SALE IN RESELLING.

SYLLABUS:

Under the provisions of Section 6310-11, General Code, where a junk dealer receives a "used motor vehicle," and offers the same for resale either in the form in which he received it, or by the addition of parts thereto, he is without authority to deliver the necessary bill of sale to a proposed purchaser, unless he theretofore at the time of his purchase, received a proper bill of sale under the the Ohio Motor Vehicle Registration Act.

COLUMBUS, OHIO, April 14, 1927.

HON. CHARLES R. WILSON, *Commissioner of Motor Vehicles, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication requesting my opinion as follows:

"There is forwarded herewith the copy of a letter from the Clerk of Courts, Guernsey county, requesting an opinion in connection with the bill of sale law as applied to "junked" cars.

It is respectfully requested that an opinion be furnished this Bureau covering the question raised by Mr. Snider."

Mr. Snider's letter is as follows:

"Would you please advise me as to the law pertaining to the filing of a bill of sale on a car purporting to have been junked, rebuilt and sold again. This proposition is giving us some trouble and there is no doubt but what this is the source through which many stolen cars are gotten rid of, the junk dealers insisting that a sworn statement showing they built a car from junk being all that is necessary.

We have a case now, where a man presented a sworn statement for filing, claiming the car was purchased for junk and new parts put on. He presented this sworn statement after we had refused to file his bill of sale because he did not have the original bills of sale on the car, and we recognized the engine number that he had presented to us a few days previous.

We asked if the car was driven to the junk yard when sold and he said it was, therefore, in the first place it was not a junk car, if we interpret the law correctly. When he was in previous to this time he said the man he bought the car from said the original bills of sale were filed in Steubenville, but when we wrote there, nothing was ever filed and they said a man by that name had been in jail there for blackmail.

We have learned that this is a stolen car and the party who had the license for it never came to claim it. Of course the party who bought it here, wishes to get a license and it is not a junk car, neither do they have the original bills of sale on it. We are in doubt just what to do about this. Should not a junk dealer when he takes a car in for junk procure all the original bills of sale?"

The last paragraph of the last above mentioned letter discloses that the car in question was a stolen car and the party who had the license for it never came to claim the car.

This is a persuasive argument in favor of the wisdom of our registration motor vehicle law.

In the case of Willey vs. Willey, 23 O. L. R. 305, the court said:

"The purpose of G. C. Section 6310-3 was to make easier the tracing of stolen cars and punishment of offenders * * *"

Section 6310-3, General Code, among other things defines "motor vehicle" also "used motor vehicle," as well as the term "bill of sale."

Section 6310-4, General Code, makes it unlawful to dispose of a "motor vehicle" or a "used motor vehicle," except in the manner provided in the registration act.

Sections 6310-5-6-7, General Code, provide what the bill of sale shall contain.

Section 6310-8 provides for a bill of sale on a "motor vehicle," or a "used motor vehicle," received by inheritance, devise or bequest, or order in bankruptcy or insolvency, replevin or execution sale, repossession upon default in the performance of the terms of the lease, conditional sale, agreement or otherwise than by the voluntary act of the owner, the "bill of sale" being required to be signed by the executor, administrator, receiver, trustee, sheriff or other representative, or successor in interest of the owner in lieu of such owner and delivered to the transferee together with all former "bills of sale," or statements of ownership.

Section 6310-11, General Code, makes it unlawful to sell a used vehicle without possession of all duly executed and filed bills of sale for the benefit of the person receiving or obtaining such "used motor vehicle."

Upon a careful examination of the various sections of the registration act relating to used motor vehicles and especially when considered in connection with the facts stated in your letter, it is apparent that the junk dealer is without authority to deliver the necessary bill of sale to the proposed purchaser.

It is also my opinion that before the junk dealer would be authorized to issue a bill of sale to a purchaser, he should require and receive, from the seller, the old bill of sale or bills of sale, as the case might be.

Respectfully,
EDWARD C. TURNER,
Attorney General.

328.

APPROVAL, BONDS OF VILLAGE OF SHEFFIELD LAKE, LORAIN COUNTY,
OHIO—\$11,250.00.

COLUMBUS, OHIO, April 14, 1927.

Industrial Commission of Ohio, Columbus, Ohio.

329.

APPROVAL, BONDS OF VILLAGE OF DOVER, CUYAHOGA COUNTY,
OHIO—\$7,857.00.

COLUMBUS, OHIO, April 14, 1927.

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

330.

CORONER—SECTION 1745, GENERAL CODE, CONSTRUED.

SYLLABUS:

The provisions of Section 1745, General Code, to the effect that when the office of coroner becomes vacant by death, resignation, expiration of term or otherwise, or when the coroner is absent from the county or unable from sickness or other causes to discharge the duties of his office, a justice of the peace of the county shall have the powers and duties of the coroner to hold inquests, applies to all counties of the state, without regard to population.

COLUMBUS, OHIO, April 15, 1927.

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

GENTLEMEN:—This will acknowledge receipt of your communication, requesting my opinion in answer to the following question: