

by their removal when they were found assigning their salaries; but this is only a partial remedy for there would still be no means of preventing the continued recurrence of the same difficulty. If such assignments are allowed then the assignees, by notice to the government, would on ordinary principles be entitled to receive pay directly and to take the place of their assignors in respect to the emoluments, leaving the duties as a barren charge to be borne by the assignors. It does not need much reflection or observation to understand that such a condition of things could not fail to produce results disastrous to the efficiency of the public service. * * * The substance of it all is, the necessity of maintaining the efficiency of the public service by seeing to it that public salaries really go to those who perform the public service. To this extent, we think, the public policy of every country must go to secure the end in view."

This doctrine has been followed in Ohio. *Serrill v. Wilder*, 77 O. S., 343.

A consideration of your inquiry raises numerous questions of government as well as public policy. It is the American theory of government that the public trust should not be lodged exclusively in those of means,—hence provision is generally made for reasonable compensation to be paid to public officials in order that the public service may be open to all citizens, regardless of their financial status. There is no public trust of greater importance in a democracy than that exercised by the election officials at a public election. I am therefore clearly of the view that the proposed plan of sweeping aside the orderly process of conducting an election is not only unauthorized but governmentally unsound.

As to the validity of the election so conducted, numerous contentions could be made. It might be urged that the precinct officials were, notwithstanding the fact that their appointment had been unauthorized, *de facto* officers. There is, of course, the possibility that a purely local election, otherwise properly conducted, would be held by the courts to be valid. However, it is not the province of the Attorney General to advise as to the outcome of such litigation when such advice must be predicated upon a recognition of an unauthorized course of procedure.

In view of the foregoing, it is my opinion that a board of elections is not authorized to appoint judges and clerks of elections to serve for a specific election without compensation.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3011.

APPROVAL, BOND FOR FAITHFUL PERFORMANCE OF HIS DUTIES
AS RESIDENT DISTRICT DEPUTY DIRECTOR—GUY M. CART-
WRIGHT.

COLUMBUS, OHIO, March 2, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted a bond in the penal sum of \$5,000.00 with

surety as indicated, to cover the faithful performance of the duties of the official hereinafter named:

Guy M. Cartwright, Resident District Deputy Director, Putnam County—American Surety Company of New York.

Finding said bond to have been properly executed, I have accordingly approved the same as to form, and return it herewith.

Respectfully,

GILBERT BETTMAN,

Attorney General.

3012.

DISAPPROVAL, ARTICLES OF INCORPORATION OF THE DOUGLASS
MUTUAL AID SOCIETY.

COLUMBUS, OHIO, March 2, 1931.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I return herewith unapproved the proposed articles of incorporation of the Douglass Mutual Aid Society, which you submitted for my examination with your communication of recent date. Although there is no statute requiring the endorsement of my approval thereon, I interpret your communication as a request for my opinion as to their validity. See my opinion No. 2139, rendered you under date of July 23, 1930.

The body of the proposed articles of incorporation, exclusive of the fourth clause, reads as follows:

"The undersigned, a majority of whom are citizens of the United States, desiring to form a corporation, not for profit, under the General Corporation Act of Ohio, do hereby certify:

FIRST. The name of said corporation shall be The Douglass Mutual Aid Society.

SECOND. The place in this State where the principal office of the corporation is to be located, Steubenville, Jefferson County.

THIRD. The purpose or purposes for which said corporation is formed are:

To Assess and Accept financial dues from the members to aid them when sick and in distress and to aid in their *burriel*."

In Vol. I, Opinions of the Attorney General, 1912, p. 57, the then Attorney General had under consideration similar articles of incorporation, the purpose clause of which read as follows:

"The purpose for which said corporation is formed is to assist in paying the funeral expenses of its deceased members; and to pay weekly benefits to its members who may be sick or disabled."