

851.

## APPROVAL, BONDS OF MONTGOMERY COUNTY, \$5,305.00.

COLUMBUS, OHIO, August 10, 1927.

*Industrial Commission of Ohio, Columbus, Ohio.*

852.

VILLAGE COUNCIL—MEMBER CANNOT LEGALLY SELL LUMBER TO A CONTRACTOR FOR USE IN CONNECTION WITH A CONTRACT AWARDED TO SUCH CONTRACTOR BY THE COUNCIL OF WHICH THE PARTY IN QUESTION IS A MEMBER.

## SYLLABUS:

*A member of a village council during his term of office cannot legally sell lumber to a contractor for use in connection with a contract awarded to such contractor by the council of which the party in question is a member.*

COLUMBUS, OHIO, August 11, 1927.

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

GENTLEMEN:—This will acknowledge receipt of your request for my opinion in answer to the following question:

“May a member of the village council during his term of office legally sell lumber to a contractor for use in connection with a contract awarded to such contractor by the council of which the party in question is a member?”

By virtue of Sections 4221 et seq., General Code, the council of a village is vested with the authority to make and supervise the execution of all contracts made on behalf of the village. In the exercise of such authority it becomes council's duty to inspect and pass on the quality of all material used by contractors for the purpose of determining whether or not proper material is being used and whether or not the specifications for the improvement are being properly complied with. This fact itself is in my opinion sufficient to preclude a member of a village council from selling material to a contractor.

It is a familiar principle of common law that an agent in the execution of his agency shall not be permitted to put himself in a position antagonistic to his principal. An agent by accepting the undertaking committed to his care impliedly agrees that he will use his best endeavors to further the interest of his principal. This principle of law precludes him absolutely from dealing with himself directly or indirectly. From this principle there is evolved the rule that a public officer cannot act in matters involving discretion where the exercise of that discretion effectuates objects in which