

afflicted should be notified as provided by Section 3480, General Code, and, when, upon investigation, the need of the person is approved by the proper officials and the afflicted person sent to a hospital, and notice is given within three days after the non-residence of the person afflicted is disclosed by the township or city officials furnishing the medical or hospital services to the officials of the township or city in which the afflicted person has a legal settlement, thereupon the township or city of legal settlement of the afflicted person shall be liable for such hospital or medical services.

The notice given to officials of the taxing district of legal settlement by the township trustees or proper officers of the city rendering the service is to enable the officials of the township or city of the legal settlement to properly investigate the legal settlement of the afflicted person and their ability to provide for the payment of such medical or hospital services, as well as to enable the township trustees and proper municipal officers to remove the afflicted person to such hospital or suitable place as the proper officials of the district of legal settlement may provide for the needed care of the afflicted person. In this particular instance the notice was given by the Newark City Hospital but *the services were not rendered at the request or instance of the proper city officials of the city of Newark.*

In specific answer to your first question, it is my opinion that the Newark City Hospital, being a private institution and not having furnished the hospital and medical services for the woman in question at the instance of the proper Newark city officials, could not hold the township trustees of Washington Township, Licking County, Ohio, liable for the medical or hospital services of the woman in question. The hospital services not being furnished at the instance of the officials of the city of Newark, it would not have changed the liability had the director of public safety of the city of Newark given the notice to the township trustees of Washington Township.

In view of this discussion, *supra*, it becomes unnecessary to answer your second question.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1495.

FIRE INSURANCE—NOT VIOLATION OF SECTION 12910, G. C., FOR HUSBAND OF MEMBER OF BOARD OF TRUSTEES OF COUNTY CHILDREN'S HOME TO SELL FIRE INSURANCE ON SUCH HOME.

SYLLABUS:

It is not a violation of section 12910, General Code, for the husband of a member of the board of trustees of a county children's home to sell fire insurance for the use of such home.

COLUMBUS, OHIO, September 2, 1933.

HON. JOHN W. BOLIN, *Prosecuting Attorney, Athens, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your letter of recent date, which reads as follows:

"May I have your opinion upon the following:

The County Board of Trustees for the Children's Home has as one of its members the wife of an insurance agent. Said board purchases all or the major portion of its insurance from the husband of one of its members as above stated. I would like your opinion of whether or not this is contrary to Section 12910 of the General Code."

Section 12910, General Code, provides as follows:

"Whoever, holding an office of trust or profit by election or appointment, or as agent, servant or employe of such officer or of a board of such officers, is interested in a contract for the purchase of property, supplies or fire insurance for the use of the county, township, city, village, board of education or a public institution with which he is connected, shall be imprisoned in the penitentiary not less than one year nor more than ten years."

It may be noted from a reading of the above section, in connection with the facts of your letter that in order for the wife, who is a member of the board of trustees of the county children's home, to violate such section she must be found to be "interested" in the contract for the purchase of fire insurance for the use of the county with which she is connected.

This office has in at least two fairly recent opinions held that the relationship of husband and wife alone does not engender an "interest" of either in the contracts made by the other. In the latest of these opinions, namely, Opinions of the Attorney General for 1930, volume II, page 847, it was held, as disclosed by the syllabus:

"A contract made by a board of education with the husband or wife of a member of the board for the transportation of pupils, for janitor service, for repairs or supplies, or for any other purpose, is a valid contract and the making of such contract does not constitute a violation of section 4757, General Code, by the husband or wife board member who participates in the making thereof."

In the opinion the case of *Board of Education vs. Boal*, 104 O. S. 482, was discussed. The Attorney General stated at page 848, relative to this case:

"The question before the court, however, involved the general proposition of whether or not a member of a board of education who participates in the making of a contract with his wife to teach in the public schools was in violation of section 12932, General Code, and the effect of the holding of the court was that such acts were not prohibited by the said statute. The case, therefore, must be taken as authority for the holding that such participation by a board member is not acting in a matter in which he or she is pecuniarily interested and, therefore, not in violation of either section 12932 or section 4757, General Code.

True, as you state, this decision discussed contracts for teaching only. I see no difference in principle between such contracts and any sort of contract that might be made with the wife or husband of a member of a board of education."

It is plain that the reasoning of the foregoing opinion is applicable here, as sections 12932 and 4757, General Code, which prohibit a member of a board of education from "acting in a matter in which he or she is pecuniarily *interested*" and having "directly or indirectly any pecuniary *interest* in any contract of the board," are quite similar to section 12910, General Code, which prohibits any officer from being "interested" in a contract for the purpose of fire insurance for the political subdivision with which he is connected.

The other of the two recent opinions is reported in Opinions of the Attorney General for 1927, volume III, page 2089. The first sentence of the first paragraph of the syllabus of this opinion holds:

"The relation of husband and wife is such that the relation alone does not engender an interest of the husband in the contracts of the wife, and where a county sheriff contracts with his wife for the furnishing of meals to the prisoners in the county jail, to be paid for from county funds, he does not thereby become interested in a contract for the purchase of supplies for the use of the county, in violation of section 12910, General Code."

It is true that the facts of the foregoing opinion differed from those before us in this opinion. In the 1927 opinion, the wife contracted with her husband, the sheriff, while in this opinion, the husband does the contracting with the board of which his wife is a member. However, the same principle is applicable that was laid down in the above opinions.

Consequently, I am of the opinion, in specific answer to your question, that it is not a violation of section 12910, General Code, for the husband of a member of the board of trustees of a county children's home to sell fire insurance for the use of the home.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

1496.

EMPLOYMENT—PREFERENCE MUST BE GIVEN TO PERSONS LIVING
 IN POLITICAL SUBDIVISION UNDER INDUSTRIAL RECOVERY
 ACT FOR EMPLOYMENT ON HIGHWAYS—ALIENS' RIGHTS UNDER
 SAME.

SYLLABUS:

1. *By the terms of the Industrial Recovery Act, persons who are already living in a political subdivision and/or county and who honestly consider that territory as their home, must be given a preference in the employment of labor.*

2. *Aliens who have filed formal declarations of their intention of becoming citizens with the proper court, are considered in the same class with citizens of the United States in the employment of labor.*