

In view of the foregoing, I am of the opinion that a contract may be legally made between the son of a member of a board of education and the board of education for the transportation of pupils to and from schools in rural districts, where the son is over 21 years of age and the father has no financial interest in the making of the contract.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

3201.

TOWNSHIP TRUSTEES—POWER TO LEASE ROAD MACHINERY TO COUNTY SURVEYOR FOR IMPROVEMENT OF COUNTY ROAD BY FORCE ACCOUNT UNDER SECTION 7198, GENERAL CODE—CONDITION NOTED.

*SYLLABUS:*

*Township trustees may legally lease road machinery to the county surveyor when the county commissioners have authorized him to improve a county road by force account under the provisions of Section 7198, General Code, providing such machinery is not needed by the township during the term of the lease.*

COLUMBUS, OHIO, May 4, 1931.

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

GENTLEMEN:—Acknowledgment is made of your recent communication requesting my opinion upon the following:

“When the county commissioners of a county, under the provisions of section 7198 G. C., authorize the county surveyor to employ such laborers and teams and lease such machinery and tools as may be necessary in the construction, reconstruction, improvement, maintenance and repair of roads, bridges and culverts by force account, may such county surveyor legally lease machinery and tools from the trustees of the township in which the road improvement is being made? This question involves the right of the township trustees to lease such machinery and tools to the county.”

Section 7198, General Code, to which you refer, reads:

“The county surveyor may when authorized by the county commissioners, employ such laborers and teams, lease such implements and tools and purchase such material as may be necessary in the construction, reconstruction, improvement, maintenance or repair of roads, bridges, and culverts by force account.”

Section 3373, General Code, authorizes the township trustees to purchase or lease road machinery. Said section reads in part:

“ \* \* \*

Township trustees are hereby authorized to purchase or lease such machinery or tools as may be deemed necessary for use in maintaining and repairing roads and culverts within the township. The township trustees shall provide suitable places for housing and storing machinery and tools owned by the township. They shall have the power to purchase such material and to employ such labor and teams as may be necessary for carrying into effect the provisions of this section, or they may authorize the purchase or employment of the same by one of their number, or by the township highway superintendent at a price to be fixed by the township trustees. All payments on account of machinery, tools, material, labor and teams shall be made from the township road fund as provided by law. All purchases of materials, machinery, and tools, shall, where the amount involved exceeds five hundred dollars, be made from the lowest responsible bidder after advertisement made in the manner hereinbefore provided. All force account work shall be done under the direction of a member of the board of township trustees or of the township highway superintendent.”

In sections other than those above mentioned there is power given to township trustees to co-operate with the county commissioners in the improvement of roads. See Sections 7467 and 3298-11, General Code.

I find no express authority for township trustees to rent equipment owned by the township; however, in view of the fact that such township may co-operate with the county by paying part of the cost of the construction or improvement of a road, the question is presented as to whether or not the leasing of equipment to the county is within the implied power of such trustees. In the case of *Trustees v. Township*, 5 O. N. P. (n. s.) 354, it was held, as is disclosed by the headnote:

“It is within the powers of township trustees to sell and convey real estate owned by the township when it is for the best interest of the township that the sale be made.”

The following is quoted from the body of the opinion in that case:

“A careful review of the statutes reveals to us no section specially giving township trustees the authority to sell any part of the real estate of the township used for purposes such as this, *nor do we find that it is prohibited so to do*. We do find, however, in the section already referred to (1376) that the township is constituted a body politic incorporate *for the purpose of enjoying and exercising the rights and privileges conferred upon it by law.*”

If township trustees have implied power to sell real estate under the circumstances considered, it is believed by the same logic that they have power to rent equipment belonging to the township to the county commissioners. It is obvious that it may be to the mutual advantage of both political subdivisions to enter into such agreement. If the question were whether this equipment could be rented to a private individual, of course, another problem would be presented. However, in the case you present, the arrangement furthers a common purpose which such subdivisions may jointly accomplish.

While the question is not free from doubt, I am inclined to the view that the

township trustees may legally lease road machinery to the county surveyor when the county commissioners have authorized him to improve a county road by force account under the provisions of Section 7198, General Code, providing such machinery is not needed by the township during the term of the lease.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

3202.

CORPORATIONS—INCORPORATORS NOT REQUIRED TO PUBLISH  
NOTICE OF DISSOLUTION WHEN.

SYLLABUS:

*Section 8623-81, General Code, does not require the incorporators of a corporation to publish a notice of dissolution when such incorporators have filed a certificate of dissolution pursuant to the provisions of Section 8623-79, General Code.*

COLUMBUS, OHIO, May 4, 1931.

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

DEAR SIR:—Your letter of recent date is as follows:

“Directing your attention to G. C. 8623-79 which permits the filing of a certificate of dissolution by incorporators of a corporation, your opinion is requested as to whether or not the notice required to be given by Section 8623-81 should be given, and if your opinion is in the affirmative, please advise as to whether or not the notice may be given by all or a majority of the incorporators.”

Section 8623-79, General Code, provides in so far as pertinent:

“A corporation may wind up its affairs and dissolve in the following manner:

(a) If the amount of capital with which the corporation will begin business as stated in the articles has not been subscribed, the incorporators, or a majority of them, may file in the office of the secretary of state a certificate, verified by their oath, that such amount of capital has not been subscribed and that they elect to dissolve the corporation.

\* \* \*

The balance of the foregoing section provides for the dissolution of corporations by the directors and by the officers under authority of the stockholders.

Section 8623-81, General Code, is as follows:

“The directors of such dissolved corporation shall forthwith cause a notice of such dissolution to be published once a week on the same day of each week for two successive weeks in a newspaper published and of general circulation in the county in which the principal office of the cor-