

2401.

TOWNSHIP TRUSTEES—AUTHORITY TO SELL OLD ROAD GRADER.

SYLLABUS:

Where a township owns a road grader which was purchased under authority of Section 3373, General Code, and which is no longer needed in connection with the maintenance and repair of the roads of the township, the township trustees may sell such grader in the manner prescribed in Section 3281, General Code.

COLUMBUS, OHIO, July 30, 1928.

HON. ERNEST M. BOTKIN, *Prosecuting Attorney, Lima, Ohio.*

DEAR SIR:—This will acknowledge the receipt of your recent communication, which reads as follows:

“Where a township owns a road grader, which was purchased under authority of Section 3373 of the General Code, and which is no longer needed in connection with the maintenance and repair of the roads of the township, have the township trustees the authority to sell such road grader for cash and if so what procedure should be followed in making such sale?

I can find no authority in the statutes for the sale of township property other than that provided in Sections 3244 and 3281 of the General Code relating to real estate. However, it seems to me where the best interests of the township will be served by the sale of personal property such authority would be implied. In this connection I call your attention to the case of *Trustees vs. Minor*, 26 O. S. 452. I shall appreciate your opinion on the above question.”

Section 3281, General Code, to which you refer in your communication, was amended by the 87th General Assembly on April 21, 1927 (112 v. 218), and, as so amended, provides:

“The trustees may accept on behalf of the township, the donation by bequest, devise or deed of gift, or otherwise, of any property, real or personal, for any township use. When the township has property which the trustees by resolution find, it does not need, the trustees may sell and convey same. Such sale must be by public auction and upon notice thereof published once a week for three weeks in a newspaper published, or of general circulation, in such township, the last of said publications to be at least five days before date of sale. When a township owns and has title to real property situated within the corporate limits of a municipality in that township, the trustees of such township may by resolution duly passed, authorize the transfer and conveyance of such real property to the municipality for municipal purposes, upon such terms and conditions as are agreed to between the township trustees and the legislative body of such municipality.”

This section contains ample authority for the sale of the road grader in question, such sale to be made at public auction, after publication of a notice thereof once a week for three weeks in a newspaper published or of general circulation in such township, the last publication to be at least five days before the date of sale.

Respectfully,
EDWARD C. TURNER,
Attorney General.