

public relief, or the services of a physician or surgeon, complaint thereof shall be forthwith made by a person having knowledge of the fact to the township trustees, or proper municipal officer. If medical services are required, and no physician or surgeon is regularly employed by contract to furnish medical attendance to such poor, the physician called or attending shall immediately notify such trustees or officer, in writing, that he is attending such person, and thereupon the township or municipal corporation shall be liable for relief and services thereafter rendered such person, in such amount as such trustees or proper officers determine to be just and reasonable. If such notice be not given within three days after such relief is afforded or services begin, the township or municipal corporation shall be liable only for relief or services rendered after notice has been given. Such trustees or officer, at any time may order the discontinuance of such services, and shall not be liable for services or relief thereafter rendered."

It is noted that this section requires a notice of the furnishing of medical relief to be given to the township trustees within three days after the rendition of the services, and it is my opinion that if such notice was not given, the township trustees are not liable for such medical services.

An examination of the provisions of section 7692 of the General Code, relative to the appointment of a physician and dentist by boards of education, discloses that such school physician may be employed for the making of examinations and diagnosis of all children referred to him at the beginning of the school year and at other times as he may deem advisable. Such section, however, does not provide for the furnishing of medical relief of the character mentioned in your request by the doctor or the board of education.

In answer to your inquiry, I am therefore of the opinion:

1. Under Section 7686, General Code, application must be made to the trustees of a township by a board of education for the means of smallpox vaccination for indigent school children in order to charge the trustees for the expense thereof.

2. Under Section 3480, General Code, relative to poor relief, application for the payment of medical services rendered indigent poor must be made within three days after such service is rendered to the trustees of the township in order to charge the township trustees with the duty of allowing a claim therefor in such amount as they deem just and reasonable.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3200.

CONTRACT—BETWEEN ADULT SON OF A MEMBER OF A RURAL BOARD OF EDUCATION AND SAID BOARD FOR TRANSPORTATION OF SCHOOL PUPILS—VALID.

SYLLABUS:

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.

COLUMBUS, OHIO, May 4, 1931.

HON. EDWIN S. DIEHL, *Prosecuting Attorney, Defiance, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your recent request, which reads:

“Kindly advise whether in your opinion a board of education can legally enter into a contract with a son of a member of such board for transportation of children to and from schools in rural districts.”

From subsequent information received from you, I find that the son referred to in your communication is over twenty-one years of age, married, and living apart from his father.

Section 12932, General Code, which is pertinent to your inquiry, reads:

“Whoever, being a local director or member of a board of education, votes for or participates in the making of a contract with a person as a teacher or instructor in a public school to whom he or she is related as father or brother, mother or sister, or acts in a matter in which he or she is pecuniarily interested, shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned not more than six months, or both.”

Section 4757, General Code, relative to boards of education, reads in part as follows:

“*** No member of the board shall have directly or indirectly any pecuniary interest in any contract of the board or be employed in any manner for compensation by the board of which he is a member except as clerk or treasurer.***”

The above sections prohibit a member of a board of education from having a pecuniary interest in any contract made by the board.

As a general rule, there does not exist a pecuniary interest between a father and son except where the son is a minor and the father is charged with the duty of his support. Even though the son may be a minor, it is well settled in this state that if the son is emancipated there exists no financial interest on the part of the father in the son. See Opinions of the Attorney General for 1927, page 2059.

Of course, if it can be proved that the father has a financial interest in the contract between the board of education and his son, then the prohibitory provisions of the above statutes would apply; but, in the absence of such showing, there is no prohibition by statute against a member of a board of education voting for a contract to be made between the board of education and his son, who is of age, for the transportation of school pupils.

It should be noted there is a distinction between the financial obligation imposed by law on a father for the support of his minor son and the moral financial obligation that is generally recognized as existing between father and son, regardless of the age of the son.

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: