

"Here, * * the purpose of the journey was to acquire such information in regard to the duties of his office as the building inspector might reasonably acquire while in attendance upon a convention of officials holding like positions, in various cities. We are unable to see how such an object relates itself either directly or with reasonable necessity to the duties of the relator's office. He was presumably appointed to his present position because of his fitness by experience and education to discharge the duties of the place, and the salary paid him is presumably adapted to secure the degree of efficiency in these respects which the city desires that its building inspector shall possess. If a person relatively uneducated, inexperienced and inefficient in the discharge of the duties of the position of building inspector were appointed at a salary proportioned to his fitness, it might as well be argued that his deficiencies may thereafter be supplemented at the charge of the municipality which he serves by directing him to attend an architectural school and to render his bills for board and tuition to the city. The salary attached to the office of building inspector is presumed to be sufficient to enable him to maintain his professional or official efficiency at proper standard."

It is axiomatic that public office or public employment should not be regarded as a sinecure. The service rendered is presumed at least to be commensurate with the compensation, and it would clearly be an illegal expenditure of public funds to pay an employe for doing nothing. Theoretically, of course, the rule which you state has been adopted by the library board in question does not contemplate the expenditure of public money without proper return therefor. However, the arrangement which the rule authorizes does not result in providing a fixed compensation, in my opinion, such as is contemplated by the statute and is therefore an unauthorized exercise of power on the part of the board of library trustees.

Respectfully,

GILBERT BETTMAN,

Attorney General.

3302.

APPROVAL, CONTRACT FOR ROAD IMPROVEMENT IN ASHLAND COUNTY.

COLUMBUS, OHIO, June 5, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

3303.

INSURANCE—LIABILITY AND PROPERTY DAMAGE UPON VEHICLES USED FOR TRANSPORTING CHILDREN'S HOME INMATES TO SCHOOL—MAY NOT BE PROCURED BY COUNTY COMMISSIONERS AND HOME'S TRUSTEES.

SYLLABUS:

Neither a board of county commissioners, nor the trustees of a children's

home may legally expend public funds for the procuring of "liability" or "property damage" insurance upon a vehicle used in the transportation of the inmates of the children's home to a school to which they have been assigned.

COLUMBUS, OHIO, June 6, 1931.

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

GENTLEMEN:—This will acknowledge receipt of your request for my opinion, which reads as follows:

"In a certain county in this state the county owns the bus which is used for the transportation of the children of school age in the children's home to the school or schools to which such children are assigned.

Question: May the county commissioners legally spend the funds of the county to procure liability and property damage insurance upon such bus?"

It is provided by Section 3088, General Code, that children of school age who are inmates of a county children's home shall be given an elementary education after the manner described in Section 7676, General Code. Said Section provides in substance that the inmates of a county, semi-public, or district children's home shall have the advantage of the privileges of the public schools and that they shall attend the public schools in the district where the home is located or like school privileges shall be provided for them at the home.

There is no specific authority for a board of county commissioners or for the trustees of a county children's home to transport the inmates of the home to a public school to which they may have been assigned. It is the duty, however, of the authorities to provide for the welfare of the children in the home and for their education, and this would include no doubt the power to transport the children, under certain circumstances at least, to a public school within the district, to which they may be assigned.

In view of the conclusions hereinafter set forth, it is not necessary to discuss the relative duties and powers of county commissioners and boards of trustees of children's homes with respect to the providing of means for the education of the children, or the proper funds from which expenditures should be made for that purpose. The question is, whether or not "liability" or "property damage" insurance may lawfully be carried on the truck used for the transportation of the inmates of a children's home to a school to which they may be assigned and paid for from the appropriate fund.

This office has, in a number of instances, passed upon the lawfulness of the payment from public funds of premiums for public liability and property damage insurance for publicly owned and operated vehicles.

It is generally conceded that, even in the absence of specific authority therefor, such insurance may be effected when there is a possible liability to protect. When there is no liability to protect, no possibility of loss for which the public might be indemnified, the right to effect such insurance clearly does not exist. To pay public funds for such insurance would amount to a donation to the insurance company. Such a policy of insurance would afford no protection to the public or to the person injured. To pay the premium on such insurance from public funds would be a sheer waste of public money.

Without further going into the reasons for these conclusions, it is sufficient for the purposes of this opinion to refer to one or two former opinions with

reference to this subject where the authorities are reviewed at some length. In an opinion found in the Opinions of the Attorney General for 1927, at page 814, the question with reference to the power of a board of county commissioners to effect this type of insurance was considered. The conclusions therein set out with reference to a board of county commissioners would apply as well to a board of trustees of a children's home as the nature of the power of the two boards is the same. It was there held:

"A board of county commissioners cannot legally enter into a contract and expend public moneys for the payment of premiums on 'public liability' or 'property damage' insurance covering damages to property and injury to persons caused by the negligent operation of county owned motor vehicles; there being no liability to be insured against, the payment of premiums would amount to a donation of public moneys to the insurance company."

And again, in 1929, similar questions were considered with reference to boards of county commissioners, township trustees, and similar boards, and a like conclusion was reached. See Opinions of the Attorney General for 1929, at page 1013.

In view of the authorities referred to in the aforesaid opinions, it clearly follows that neither the board of trustees of a children's home nor the board of commissioners of the county in which a children's home is located, would be liable in damages for personal injuries received by anyone, either the children being conveyed or third parties, in the event of an accident occurring while the children were being transported, regardless of what may have caused the accident.

I am therefore of the opinion that neither a board of county commissioners nor the trustees of a children's home are empowered to spend the funds of the county to procure "liability" or "property damage" insurance upon a bus which is used to convey the inmates of the children's home to the school to which they are assigned.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3304.

CONSERVATION COUNCIL—MAY EXCLUDE PUBLIC FROM EXECUTIVE SESSIONS.

SYLLABUS:

The conservation council may lawfully hold executive sessions from which all persons except members of the council are barred.

COLUMBUS, OHIO, June 6, 1931.

HON. I. S. GUTHERY, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt from you of the following inquiry:

"At the regular meeting of the Conservation Council on March 26th,