

to sell the said property in such manner and on such terms as are consistent with the faithful performance of the duties of their office as such trustees."

The question then arises as to whether or not the insertion of a clause in a deed to a lot in a township cemetery which would protect the trustees and residents of the township against speculative transfers of cemetery lots to non-residents would be consistent with the faithful performance of the duties of their office as trustees. A consideration of the fact that such township cemeteries are acquired and maintained in part from the proceeds of township taxation impels the conclusion that a restraint on alienation would be a reasonable requirement in a deed of sale of a township cemetery lot.

Such a restriction would also seem to be reasonable from the standpoint of public policy for, as was stated in the case of *Frazer v. Lee et al.*, 8 Ohio App. 235, at 245:

"It was never contemplated or intended that a burial lot in a public cemetery should be made the subject matter of barter and sale, nor can such claim be predicated upon the acquisition of a certificate of transfer of title to said lot. The idea of making the lot of land chosen by a man in his lifetime as a last resting place for himself and his family a subject for public auction is offensive to the sensibilities of mankind."

It is, therefore, my opinion that a board of township trustees may adopt reasonable rules and regulations for the purposes of protecting the trustees and residents of the township against speculative sales of township cemetery lots to non-residents, and incorporate in deeds to the lots such rules and regulations as are pertinent.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

3199.

#### VACCINATION—INDIGENT SCHOOL PUPILS—WHEN MEDICAL EXPENSES CHARGEABLE AGAINST TOWNSHIP.

##### SYLLABUS:

1. Under section 7685, 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.

COLUMBUS, OHIO, May 4, 1931.

HON. JOSEPH J. LABADIE, *Prosecuting Attorney, Ottawa, Ohio.*

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

"I am writing you as prosecuting attorney in and for Putnam County, Ohio, to give me some light on a certain question that has arisen here, which is as follows:

In several townships of our county a number of cases of smallpox have been reported among school children and others, and a number of exposed families have been quarantined by the board of health unless they submit to vaccination. The board of education in these townships have ordered that the children either be vaccinated or not allowed to attend school, and inasmuch as some of these children come from indigent families, a question has arisen between the board of education and the township trustees.

A number of children from indigent parents have been vaccinated by our local physician rather than be quarantined and refused admission at school, and the doctors have presented their bill for vaccination of these children to the township trustees in some cases and to the board of education in other cases. The township trustees contend that since the board of education ordered the children to be vaccinated or refused admission at school, they should pay the expenses of the vaccination. The board of education contends that vaccination of indigent children would be the same as any other medical attention to poor people and that the township trustees must pay the bill.

It is true that the board of education cannot compel children to be vaccinated if they do not consent to it; however, they can refuse admission at school. If the indigent families of children who have not been vaccinated are quarantined, the trustees would be forced to pay for their food and support during that time. However, inasmuch as these people are indigent, the trustees are paying for their food anyway.

Would you please render me an opinion as to whether the township trustees should pay the bill for these indigent school children or whether the board of education should pay the bill."

Section 7686 of the General Code reads:

"The board of each district may make and enforce such rules and regulations to secure the vaccination of, and to prevent the spread of small-pox among the pupils attending or eligible to attend the schools of the district, as in its opinion the safety and interest of the public require. Boards of health, councils of municipal corporations, and the trustees of townships, on application of the board of education of the district, at the public expense, without delay, shall provide the means of vaccination to such pupils as are not provided therewith by their parents or guardians."

The foregoing section requires that a board of education make an application to the board of township trustees for means of smallpox vaccination before such cost may be charged against the township. Since there appears to have been no application, I do not believe that under the above section, the township trustees, in the instant case, are chargeable for services of a doctor for smallpox vaccination. If an application was made to the township trustees, they might have contracted for one doctor to furnish such vaccination for a cost much less to the township than the cost of services of individual doctors.

Section 3480, General Code, relating to township relief, reads as follows:

"When a person in a township or municipal corporation requires

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.*

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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*