

levy upon a part of the subdivision may not eventually find its way into a fund for the benefit of the entire subdivision. Such, in any event, was the legislative intent in failing to place any further restrictions upon the transfer of funds than those contained in Section 5625-13, General Code.

In the event the present rural school district were to have no bonds outstanding, then the transfer of this balance should be made under paragraph (c) of Section 5625-13, General Code, with the approval of the court of common pleas, to some other fund of the present subdivision.

Specifically answering your inquiry, it is my opinion that an unexpended balance remaining in a special fund which has been maintained by a rural school district for the purpose of meeting the interest and principal requirements of bonds heretofore issued by a village school district, dissolved under Section 4682-1, General Code, and joined with the rural school district, should, after all such bonds have been retired, be transferred to the bond retirement fund or sinking fund of the present rural school district in accordance with the provisions of paragraph (c) of Section 5625-13, General Code, unless the present district has no bonds outstanding, in which event transfer should be made to some other fund of the present district with the approval of the court of common pleas.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2903.

TOWNSHIP TRUSTEE—IN CHARGE OF MAINTENANCE AND REPAIR OF TOWNSHIP ROAD—MAY RECEIVE COMPENSATION FOR WORK THEREON—SUBJECT TO STATUTORY LIMITATION PER DAY AND YEAR—CONDITIONS NOTED.

SYLLABUS:

1. *A township trustee in charge of township road maintenance and repair may, under Section 3370, General Code, drive a tractor or grader on such roads and receive \$2.50 per day for each day of service in the discharge of such duties, but the total compensation of such township trustee, to be paid from the treasury, shall not exceed the \$250.00 yearly limitation imposed by Sections 3294 and 3372, General Code.*

2. *Under Section 12912, General Code, a township trustee is prohibited from receiving compensation for the driving of a tractor or grader on roads situate in the township under the supervision of another township trustee who has control of such roads by authority of Section 3370, General Code.*

COLUMBUS, OHIO, February 2, 1931.

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

GENTLEMEN:—Acknowledgment is made of your request for my opinion, which reads as follows:

“Section 3370 of the General Code provides three methods whereby the township roads may be kept in repair. When the 1st or 2nd method is followed, Section 3372 G. C., provides that the trustee or trustees designated to have

charge of the maintenance and repair of roads shall receive two dollars and fifty cents for each day of service in the discharge of such duties, but the total compensation of any township trustee to be paid from the treasury under this and all other sections of the General Code shall not exceed two hundred and fifty dollars in any year.

Question: May a trustee in the performance of these services, do such work as the driving of a tractor or grader and receive \$2.50 per day so long as the total drawn from the township treasury does not exceed \$250.00 in any year, or would the performance of such work be a violation of Section 12912 of the General Code, which forbids the trustees of a township from being interested in any of the profits of a contract, job, work or service for the township during the term for which he was elected or appointed or for one year thereafter?"

Section 12912, General Code, to which you refer, is as follows:

"Whoever, being an officer of a municipal corporation or member of the council thereof or the trustee of a township, is interested in the profits of a contract, job, work or services for such corporation or township, or acts as commissioner, architect, superintendent or engineer, in work undertaken or prosecuted by such corporation or township during the term for which he was elected or appointed, or for one year thereafter, or becomes the employe of the contractor of such contract, job, work or service while in office, shall be fined not less than fifty dollars nor more than one thousand dollars or imprisoned not less than thirty days nor more than six months, or both, and forfeit his office."

Section 3370, General Code, reads in part as follows:

"* * *

In the maintenance and repair of roads the township trustees may proceed in any one of the following methods as they may deem for the best interest of the public, to wit:—

1. They may designate one of their number to have charge of the maintenance and repair of roads within the township, or
2. They may divide the township into three road districts, in which event each trustee shall have charge of the maintenance and repair of roads within one of such districts, or
3. * * *

From a verbal communication with your department it appears that the township trustee in question wishes to engage in driving a tractor or grader on the township roads under his supervision and also on township roads under the supervision of one of the other township trustees, as authorized under Section 3370, General Code.

In answer to the first situation, viz: the driving of a truck or tractor by a township trustee on the township roads under his supervision, it would seem that the duty imposed upon township trustees by Section 3370 is to keep township roads in good repair. While it is true that the language of Section 3376, concerning the dragging of township roads under the supervision of township trustees and the employment of labor thereon, states that the work of dragging the graveled and unimproved public roads of the township, or of any road district thereof, in case the trustees divide the township into road districts, shall be done under the supervision of the township highway superintendent designated to have charge of the maintenance and repair of roads, as provided in Sec-

tion 3370, General Code, and further states that the trustees or township highway superintendents shall employ the necessary labor and teams at a price to be fixed by the board of township trustees, nevertheless, I do not believe that this section evidences an intent to prohibit a township trustee from performing actual labor on such work in his capacity as supervisor of township roads. It would seem to be a waste of public money if a township trustee were forbidden to perform labor upon such road in his capacity as road supervisor and the township forced to pay for labor which a township trustee, while acting as supervisor, may furnish at no additional cost to the township.

In such a situation it should be noted that Sections 3294 and 3372, General Code, relating to the \$250.00 yearly limitation upon a township trustee's compensation, will apply.

In considering the second question presented by your inquiry, viz., whether a township trustee may be employed as a driver of a tractor or grader on roads of the township in a district under the supervision of another township trustee, as provided in Section 3370, supra, it should be noted that the exact language of Section 12912, General Code, requires that a township trustee must have an interest in the "profits" arising from the work done by the township in order to come under its stricture.

"Profit" is defined in Webster's New International Dictionary, among other things, as "accession of good; valuable results; benefit or gain". There is little doubt that the receipt of \$2.50 per day by a township trustee amounts to his obtaining gain or benefit, and I believe he would have a financial interest in the profits arising from the work done for the township.

In view of the foregoing, it is my opinion that:

1. A township trustee in charge of township road maintenance and repair under Section 3372, General Code, may drive a tractor and grader on such roads and receive \$2.50 for each day of service in the discharge of such duties, but the total compensation of such township trustee, to be paid from the treasury, shall not exceed the \$250.00 yearly limitation imposed by Sections 3294 and 3372, General Code.

2. Under Section 12912, General Code, a township trustee is prohibited from receiving compensation for the driving of a tractor or grader on township roads under the supervision of another township trustee who has control of such roads under the provisions of Section 3370, General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2904.

APPROVAL, LEASE TO LAND ADJACENT TO WATERS OF BUCKEYE LAKE,
OHIO—EDWARD PALMER.

COLUMBUS, OHIO, February 3, 1931.

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

DEAR SIR:—You will find enclosed herewith a reservoir land lease, which you have submitted for my examination and approval.

By the enclosed lease above referred to, which has been executed by the Conservation Commissioner, there is leased and demised to the respective lessee therein named, subject to the conditions and restrictions therein provided, and for a term of fifteen years, a parcel of land adjacent to the waters of Buckeye Lake, which parcel of land is more particularly described in said respective lease.

The lease here in question, designated with respect to the name of the respective