

1471.

TOWNSHIP TRUSTEE—MAY TRANSPORT PUPILS IN SCHOOL DISTRICT LYING WITHIN HIS TOWNSHIP.

SYLLABUS:

A member of a board of township trustees may lawfully be employed by a board of education as a driver of a school wagon or motor van for the transportation of pupils, even though the township wherein such person is a trustee embraces within its boundaries the same territory as that included within the school district wherein he is employed as a school bus driver.

COLUMBUS, OHIO, January 30, 1930.

HON. MICHAEL B. UNDERWOOD, *Prosecuting Attorney, Kenton, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion with reference to the following:

“In one of the rural school districts an elected and acting member of the board of trustees was employed by the board of education of the township to transport pupils. His duties are to collect the pupils and take them to school, and then return them to their homes, using a truck for the purpose.

The question we wish to know is, whether there is anything in the law which prohibits a person from holding these two positions and receiving pay from the public?

I have passed upon the matter, but there are some who seem to think that they would prefer to have your opinion in the matter, and I am heartily in accord with the same.”

I gather from your statement that a certain school district in your county embraces within its boundaries the greater part, or perhaps all, of a certain civil township and that the board of education of the school district employed one of the members of the board of trustees of the township to drive one of the school busses for the transportation of school children.

I know of no rule of law which prevents a township trustee from accepting public employment in some other political subdivision.

Public officers such as township trustees are prohibited by law from being interested in the profits of any contract, job, work or services for the same political subdivision to which he bears the relation of an officer, but this does not extend to other political subdivisions except in so far as the provisions of Section 12911, General Code, may be applicable.

The provisions of said Section 12911, General Code, prohibit anyone holding an office of trust or profit by election or appointment, from being interested in a contract for the purchase of property, supplies or fire insurance for the use of the county, township, city, village, board of education or a public institution with which he is not connected if the amount of such contract exceeds \$50.00 unless the contract is let on public bidding after due advertisement as provided by law.

The above statute would have no application in the present instance, as the contract in question is not one of the kind of contracts named in the statute.

A school district and a civil township are two distinct corporate entities even though they may embrace the same territory. The affairs of a school district are under the control of a board of education while those of a township are looked

after by a board of trustees. These two boards are entirely separate, and there is no statutory or common law inhibition upon the members of one board being employed by the other or upon the members of one board being interested in the contracts of the other except as the same may be covered by Section 12911, General Code, referred to above.

The only statutory regulation as to who shall be employed by a board of education as driver of its school wagon or motor van is that contained in Section 7731-3, General Code, and if a person is employed who meets the qualifications fixed by the said statute, I see no reason why the employment is not legal even though such person may be a member of a board of township trustees for a township which includes the same territory as the school district.

Respectfully,

GILBERT BETTMAN,

Attorney General.

1472.

APPROVAL, BONDS FOR THE FAITHFUL PERFORMANCE OF THEIR DUTIES AS RESIDENT DISTRICT DEPUTY DIRECTORS—J. H. SWEETMAN AND JOHN F. GALLIER.

COLUMBUS, OHIO, January 30, 1930.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval two bonds, each in the penal sum of \$5,000.00. On one of said bonds the name of J. H. Sweetman appears as principal and the Fidelity and Deposit Company of Maryland appears as surety. On the other, the name of John F. Gallier appears as principal and the Commercial Casualty Company appears as surety. Both of said bonds are conditioned for the faithful performance of the duties of the principals as resident district deputy directors.

Finding the said bonds to have been executed in proper legal form, I have endorsed my approval thereon as to form, and return the same herewith.

Respectfully,

GILBERT BETTMAN,

Attorney General.

1473.

BOARD OF EDUCATION—RAZING SCHOOLHOUSE AND ATTEMPTING TO ISSUE BONDS FOR NEW BUILDING BY AUTHORITY OF REPEALED STATUTE—QUESTION OF ISSUING BONDS TO, SUBMITTED ONLY AT NOVEMBER ELECTIONS.

SYLLABUS:

When through a mistake of law as to the amount of bonds which may be issued by a board of education without a vote of the electors such board has caused a school building to be razed for the purpose of using the site for a new building proposed to be constructed, such destruction of the old building is not