

**Public Officers, Interest in Contracts. Contracts, Interest in.  
Insurance, Officers Interested in.**

It is unlawful for county officers or school trustees to write insurance on county or school district property.

January 8, 1914.

Hon. R. S. Steiner,  
County Attorney,  
Big Timber, Montana.

Dear Sir:

I have your letter of the 6th instant, requesting an opinion upon the two following propositions:

"1. Is it lawful for any county officers to write insurance on county buildings?

"2. Is it lawful for a member of the board of trustees, in a county free high school to insure said high school building in an insurance company in which he is a stockholder?"

The questions upon which you desire an opinion are so clearly

covered by statutory regulation that it would seem that a mere reference to the law would be sufficient. Sec. 368, Revised Codes of 1907, provides:

"Members of the legislative assembly, state, county, city, town, or town officers, must not be interested in any contract made by them in their official capacity, or by any body or board of which they are members."

Sec. 5051 provides:

"That is not legal which is: (1) Contrary to an express provision of law. (2) Contrary to the policy of express law, though not expressly prohibited; or (3) Otherwise contrary to good morals."

The foregoing would seem to cover fully both of the propositions submitted by you, but as to the second, attention is directed to Sec. 509 of Chap. 76, of the Sessions Laws of the Thirteenth Legislative Assembly at page 234, which is a special enactment relating to the duties of school trustees, and this section makes it unlawful for any school trustee to have any pecuniary interest, directly or indirectly, in the matters enumerated in the section. A question analagous to that contained in the second proposition was before the Supreme Court of Pennsylvania in the case of Millford Borough v. Water Company, 124 Pa. 610, and it was there held that a public officer may not do that which is prohibited by express law, and the contract entered into between a water company and the borough council for a supply of water to the borough, which contract was entered into when the majority of the councilmen were stockholders in the water company was illegal and void.

See also Trainer v. Wolfe, 140 Pa. S. 279.

Berka v. Woodward (Cal.) 57 Pac. 777.

I am of the opinion, therefore, that it is unlawful either for county officers or for a member of the board of trustees of a school district to do any of the things outlined in the foregoing interrogatories, or to do anything forbidden by the section of the law above referred to.

Yours very truly,

D. M. KELLY,

Attorney General.