

spending public money for the purpose of printing the minutes of the school districts.

March 15, 1933.

You have requested an opinion on several questions relative to school matters.

The first is, does Section 1016 which prohibits school trustees from being interested in contracts also apply to the clerk of the school district?

The clerk is, of course, appointed by the Board of Trustees and serves as agent while acting as clerk. He also has some of the qualities of a public officer by reason of the fact that he is designated by law to take the school census each year, he also signs with the chairman of the Board all warrants upon the district. While he is not expressly included in the provisions of section 1016 it would seem that by reason of his relationship to the Board that he would be precluded from being interested in contracts by reason of public policy.

Your second question is in regard to hauling voters to the polls on school election day and whether this practice violates the corrupt practice act. It appears that the conclusions reached by you in your opinion are correct. The hauling of voters to the polls on election day may, with other facts, constitute a violation of the corrupt practice act but each case would have to be decided on its own merits. We would refer you to an opinion by Honorable D. M. Kelly, Attorney General, 5 Attorney General's Opinions, page 613.

Your third question is as to the meaning of the last sentence of Section 987. The language referred to no doubt is as follows:

"In districts of the third class having more than one school house where school is held one trustee must be elected from the persons residing where such outside schools are located."

This provision of the section has been regarded as a dead-letter for many years by reason of the fact that it violates certain provisions of the constitution with regard to elections. That is, that any person who is an elector and resides within any subdi-

Opinion No. 112

School Districts—Contracts—Clerk of Board of Trustees—Elections—Corrupt Practices Act—Officers—Residence—Constitutional Law—Printing—Minutes of School Board.

HELD: By reason of public policy, a clerk of a school district is precluded from being interested in contracts with said district.

The hauling of voters to the polls on school election day may, with other facts, constitute a violation of the Corrupt Practices Act, but each case must be decided on its own merits.

Any person who is an elector and resides within any subdivision of the state is entitled to be a candidate for any office unless other restrictions are imposed by the constitution.

There is no provision of law for

vision of the state is entitled to be a candidate for any office unless other restrictions are imposed by the constitution. (Art. IX, Sec. 11.) There is, as you state, no provision of law dividing the district into election districts such as now exists in counties for the election of county commissioners by reason of the amendment of the constitution in this regard. Also the constitution provides that a person receiving a majority of votes at any election shall be declared elected to the office. (Art. IX, Sec. 13.)

These votes include all those cast in the particular district. Under this provision of the constitution any one is entitled to write in the name of any person for any office and to vote for him without regard to his residence in any particular portion of the district.

I also agree with your answer to question five in regard to printing the minutes of the school district. There being no provision of law for spending public money for this purpose, the school board may not cause the publication of its minutes.