

Opinion No. 157**Schools—School Trustees—Insurance—
Agents—Public Policy.**

HELD: It is against public policy for a member of a school board to act as agent for an insurance company in securing school insurance.

April 13, 1933.

You request my opinion as to whether or not a member of a school board can act as agent for an insurance company in securing school insurance, and call attention to Sections 444, 447, 1016 and 1327 R. C. M. 1921. The provisions of none of these sections cover the question and such action would not be a violation of any of said statutes.

The rule, however, is stated in 6 R. C. L. 740, Section 145: "According to the weight of authority, a contract by a board or public body with a member thereof or in which a member thereof is interested is unenforceable even in the absence of a statutory prohibition, although from some of the decisions it is not clear whether such contracts are to be regarded as void or voidable. The reason is that in such case the member's public duty and his private interests are directly antagonistic. It matters not if he did in fact make his private interests subservient to his public duties. It is the relation that the law condemns, not the results. It might be that in a particular case public duty triumphed in the struggle with private interests; but such might not be the case against or with another officer, and the law will not increase the temptation or multiply opportunities for malfeasance. Neither will it take the trouble to determine whether in any case the result show a wrong or crime, but it absolutely and unequiv-

ocally refuses its sanction to any contract of any kind whatever where such relation exists.”

Therefore, contracts of the character you mention should not be permitted. Such contracts might very easily involve the school districts, insurance companies and the agent in very serious litigation.