

fore doing so notified the board that she intended to marry soon after the term ending in June, 1933, should expire. The members of the board advised the teacher that in the event of her marriage the board would terminate her contract. Such contract contains the following provision: "If a woman teacher is married during the school term the Gallatin County High School Board may, at its option, terminate this contract."

The question as to whether or not Mrs. Tichenor can legally hold the board to the contract is scarcely in doubt. From the facts submitted and the wording of the contract the only ground on which the board proposes to base its right to terminate the contract with Mrs. Tichenor is that, subsequent to the execution of the contract for 1933-1934, she married.

Section 7562, R. C. M. 1921, is as follows: "Every contract in restraint of the marriage of any person, other than a minor, is void." (See *Security State Bank v. McIntyre*, 71 Mont. 186, at page 202, construing above section.) In *Knost v. Knost*, 129 S. W. 665, (Mo.) the court said: "While marriage is considered by our statute law a civil contract yet it creates a status in which the state has a vital interest, both in its creation and dissolution." In the above case a daughter was bequeathed certain property by her father's will on condition that she should not marry. The court held the prohibition of marriage void. "Restrictions on marriage are contrary to public policy, and therefore agreements or conditions creating or involving such restrictions are illegal and void." (See also, 9 Cyc. 518; *King v. King*, (Ohio) 59 N. E. 111; 81 Am. St. Rep. 635.)

The school board, in its discretion, may refuse to employ a teacher who is married but provisions in its contract with teachers such as paragraph 9 are illegal and void.

Opinion No. 273

Schools—Teachers—Trustees— Contracts—Marriage.

HELD: A provision in a contract employing a female school teacher, which gives the school board the power, at its option, to terminate the contract if said female marries during the school term, is illegal and void.

July 14, 1933.

It appears from your request for an opinion that Mrs. Tichenor, a school teacher, entered into a contract with the board to teach for the school term beginning in September, 1933, but be-