

August 11, 1933.

You submit the following facts relative to the transportation of pupils: "A contract for the school year 1932 and 1933 was let to one Al Hurst for the transportation of children in the district to and from school. For some reason one of the trustees, Peter Vielle, became dissatisfied with the services rendered by Mr. Hurst and thereafter hauled his own children to school, charging the district therefor the sum of \$15.00 per month. At the end of each month claims were filed with the school board for this amount and warrants drawn in favor of Mr. Vielle, who is one of the members of the school board, for the same." You advise that interested parties urge the removal of Mr. Vielle as a trustee and his prosecution, but you are at a loss as to the proper remedy.

We cannot find any statute which we think makes the collection of money under the circumstances outlined above a crime. Section 10827 is the nearest statute in point. This section provides that every officer prohibited by the laws of the state from being interested in contracts is guilty of a crime. However, the only statute prohibiting school trustees from being interested in contracts is Section 1016, R. C. M. 1921, and this does not clearly cover the matter of transportation.

Section 10828, R. C. M. 1921, in our opinion does not cover the case, because it relates to a false or fraudulent claim. Under the statement of facts given us there is no fraud or deceit, neither is the claim false. The claim may be illegal, but there is no question but the services were rendered.

We are satisfied that the claim is illegal and that Mr. Vielle had no right to compensation for services in transporting his own children. First of all, Chapter 102, Laws of 1929, very definitely requires contracts for transportation to be let in a particular manner. This was done and Al Hurst got the contract. Neither the Board nor Mr. Vielle could authorize anyone else after that to transport pupils for hire so long as Mr. Hurst's contract is in force. And without any statute it has generally been held to be against public policy for a public officer to contract with himself for public works or serv-

### Opinion No. 301

#### Schools—School Trustees— Transportation of Own Children.

HELD: Where a member of a board of school trustees transports his own children instead of permitting them to ride with the person who has the transportation contract, and then presents a claim to the board for such transportation, such claim is illegal and because of his wrong-doing the member may be removed from office, but it is doubtful if he could be successfully prosecuted for a criminal offense.

ices to the public. (See Vol. 9 Report and Official Opinion of Attorney General, page 243.)

It is very likely that the violation of the law relating to contracts for transportation of students as well as the approval and acceptance of pay on such illegal claim would be sufficient ground for the removal of the offending trustee from his office.

You will note that Section 999, R. C. M. 1921, provides the procedure for such removal. Such a proceeding is rather important and I would advise your running down the cases on the subject before taking action.