

mission and collect for such services from the Industrial Accident Fund.

September 6, 1935.

State Highway Commission
The Capitol

You have submitted the following for the opinion of this office:

"Chairman Harry J. McGregor of the Highway Commission, who, as you know, is also a practicing physician and surgeon of Great Falls, has requested that we secure your written opinion on the following question.

"All of our employees are insured with the Industrial Accident Board. Quite frequently accidents occur in the Great Falls territory to individuals in our employ who are covered by this Industrial Accident Insurance. Dr. McGregor is, of course, not a regular salaried official of the State but receives \$10.00 per diem and expenses only while engaged in business pertaining to the Highway Commission. He would like to know whether or not the nature of his position with the State of Montana is such as to prevent him from caring for cases, which are referred to him as a physician, of our employees who have been injured in some way in connection with their duties while working for us, and from receiving for such services as he may render in cases of this nature the customary fees which are paid by the Industrial Accident Board to physicians who render services to that Board."

Section 444, R. C. M. 1921, provides: "Members of the legislative assembly, state, county, city, town, or township 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."

Under the provisions of the Workmen's Compensation Act (Chapter 213, Part III, Political Code, R. C. M. 1921) the State Industrial Accident Board has contracted with the State Highway Commission to insure the employees of the commission, under the terms of "Plan 3" of said Act, Section 2917, as amended by Chapter

Opinion No. 166.

**Highway Commission — Employees—
Member of Highway Commission as
Physician for—Industrial Accident In-
surance — Public Officials — Doctors
and Physicians.**

HELD: Public officials, including a member of the State Highway Commission, so long as they hold public office, may not render services as a physician or surgeon to injured employees of the State Highway Com-

177, Laws of Montana, 1929, which is as follows:

"During the first six months after the happening of the injury, the employer or insurer or the board, as the case may be, shall furnish reasonable medical, surgical and hospital service and medicines when needed, not exceeding in amount the sum of Five Hundred Dollars (\$500.00), unless the employee shall refuse to allow them to be furnished, and unless such employee is under a hospital contract, as provided in Section 2907 of this act."

Under this section it is the duty of the Highway Commission to furnish reasonable services by a physician or surgeon to the injured workmen, and, if it fails to do so, such services may be furnished by the Industrial Accident Board. (See also Section 2906, R. C. M. 1921.)

In either event, Section 444, quoted above, prohibits any state official from having any indirect, as well as direct, interest in contracts made by him in his official capacity and it is our opinion, under the statutory provisions quoted above, that Dr. McGregor may not render services as a physician and surgeon to injured employees of the State Highway Commission and collect for such services from the Industrial Accident Fund, as long as Dr. McGregor is a member of the commission. This we believe to be consonant with principles of sound public policy. (See Opinions No. 133 and 183, Volume 15, Opinions of Attorney General.)

"A people can have no higher public interest, except the preservation of their liberties, than integrity in the administration of their government in all its departments. It is therefore a principle of the common law that it will not lend its aid to enforce a contract to do an act which tends to corrupt or contaminate, by improper and sinister influences, the integrity of our social or political institutions. Public officers should act from high consideration of public duty, and hence every agreement whose tendency or object is to sully the purity or mislead the judgments of those to whom the high trust is confided is condemned by the courts.

The officer may be an executive, administrative, legislative, or judicial officer. The principle is the same in either case." (13 C. J. 429.)