

Attention is further directed to the provisions of section 7763 G. C., *supra*, wherein it is provided that the child may be excused from attendance at school for the current school year upon satisfactory showing that the bodily or mental condition of the child does not permit of its attendance at school. In view of this provision, it would seem that if the infant female, under sixteen years in the instant case entered the marriage relation because of approaching maternity (section 11181-1 G. C.), this would be sufficient to bring such infant female under the provisions of section 7763 G. C., and would be sufficient justification to excuse, if not exclude, such infant person from the schools.

Therefore, in answer to your first question, you are advised that under section 7766 G. C., an age and schooling certificate could only be issued to a child over sixteen years of age, but under the provision of section 7763, a child being an infant married female could be excused on the ground of bodily condition; and further, in view of the law and arguments herein stated, it is not believed the compulsory school laws apply to compel infant married females to attend school.

In answer to your second question, section 12993 of the General Code provides that no child under sixteen years of age shall be employed, permitted or suffered to work on or about the several places or employments mentioned in said section, except that said section shall not apply to holders of age and schooling certificates under sections 7766-6, 7769-9 or 7770-3 G. C. The child in the instant case would in no wise be entitled to an age and schooling certificate under the provisions of any of the last three mentioned sections, and therefore could not be employed in any of the employments mentioned in section 12993 G. C.

Respectfully,

C. C. CRABBE,
Attorney General.

302.

BOARD OF EDUCATION—EMPLOYMENT OF MINOR SON OF BOARD MEMBER WOULD BE ILLEGAL UNDER SECTION 4757 G. C.—PRESUMPTION OF PECUNIARY INTEREST WOULD BE VIOLATION OF PENAL SECTION.

COLUMBUS, OHIO, May 4, 1923.

SYLLABUS:

The general presumption is that the employment of a minor son of a member of a board of education is such an employment or contract as would be illegal under the provisions of section 4757 upon the ground that said parent, as a member of the board of education, would have a pecuniary interest in said contract.

Under penal section 12932 General Code, the employment by a board of education of a minor son of a member of said board of education would raise the same general presumption of pecuniary interest as in the first question under section 4757 and would be a violation of said penal section.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Yours of recent date received, in which you submit the following statement and inquiry:

"Section 4757 of the General Code is in part as follows :

'No member of a board (of education) shall have directly or indirectly any pecuniary interest in any contract of the board or be employed in any manner for compensation by the board of which he is a member except as clerk or treasurer.'

(1) Would the employment of a minor son of a member of a board of education be such an employment or contract as would be illegal under the provisions of this section upon the ground that a member of the board would have a direct or indirect pecuniary interest therein?

(2) Would such employment be a violation of section 12932 G. C. in that the board member would be pecuniarily interested?"

Your first question arises under section 4757 G. C., of which you quote the pertinent part and which involves an analysis of the language "have directly or indirectly and pecuniary interest".

To determine the existence or non-existence of such an interest would necessitate a careful examination of the facts and surrounding circumstances in any given case. Under the statement submitted, the general presumption would be that the parent (member of the board of education) of the minor son would be responsible for the care and maintenance of such minor son and would also be entitled to his earnings.

The term "pecuniary interest" is defined in Bouvier's Law Dictionary as follows :

"Interest—The right of property which a man has in a thing. Pecuniary. That which relates to money."

Therefore, having in mind this definition in the case you submit, the general presumption would be that the parent (member of the board of education) would be pecuniarily interested in a contract by such board employing a minor son of a member of such board.

Your second question has reference to section 12932 General Code, which reads as follows :

"Whoever, being a local director or member of a board of education, votes for or participates in the making of a contract with a person as a teacher or instructor in a public school to whom he or she is related as father or brother, mother or sister, or acts in a matter in which he or she is pecuniarily interested, shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned not more than six months, or both."

This section as it applies in the instant case, stripped of unnecessary words, would read as follows :

"Whoever, being a member of a board of education *acts* in a matter in which he or she is pecuniarily interested, shall be fined," etc.

The general presumption in your first question that the parent would be pecuniarily interested in a contract by such board employing a minor son of a member of such board, it would seem that the same general presumption would

obtain under the penal section above quoted This section 12932 G. C. is a penal one and to obtain a conviction under it a pecuniary interest in a given matter by a member of a board of education must be proven beyond a reasonable doubt and the general presumption might be overcome by other facts.

In answer to your second question, you are advised that under 12932 General Code, the employment by a board of education of a minor son of a member of such board, such member acting in favor of such employment, would raise the same general presumption of pecuniary interest as in your first question under section 4757, and would be a violation of section 12932 G. C.

Respectfully,

C. C. CRABBE,
Attorney General.

303.

APPROVAL, BONDS OF ST. ALBANS RURAL SCHOOL DISTRICT, LICKING COUNTY, \$88,900.00, TO ERECT AND EQUIP NEW SCHOOL BUILDING AND REMODEL, REPAIR AND IMPROVE AN EXISTING SCHOOL BUILDING.

COLUMBUS, OHIO, May 4, 1923.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

304.

APPROVAL, LEASE, IN TRIPLICATE, RESERVOIR LAND LEASE TO V. H. HAMMOND, COTTAGE SITE AND LANDING, BUCKEYE LAKE, \$800.00.

COLUMBUS, OHIO, May 4, 1923.

Department of Highways and Public Works, Division of Public Works, Columbus, Ohio.

GENTLEMEN:—I have your letter of May 2, 1923, in which you enclose the following lease, in triplicate, for my approval:

RESERVOIR LAND LEASE.	<i>Valuation.</i>
To V. H. Hammond, cottage site and landing, at Buckeye Lake -----	\$800.00

I have carefully examined said lease, find it correct in form and legal, and am therefore returning the same with my approval endorsed thereon.

Respectfully,

C. C. CRABBE,
Attorney General.