

Opinion No. 21-3195

November 25, 1921

BY: HARRY S. BOWMAN, Attorney General

TO: Honorable M. C. Mechem, Governor, Santa Fe, New Mexico.

Member Board of Regents State School of Mines Cannot Write Insurance Policy on Buildings of Institution.

OPINION

{*100} In reply to your oral request for an opinion regarding the right of a member of the Board of Regents of the State School of Mines to write an insurance policy upon the property of the school, as agent, I wish to say:

Section 5174 of the Code of 1915, which was Section 68 of Chapter 138 of the Laws of 1889, reads as follows:

"No employe or member of any of the said boards shall be interested peculiarly, either directly or indirectly in any contract for building or improving any of said institutions or for the furnishing of supplies to any of such institutions."

This section appears as a part of the article in the Code, which was made applicable to the University of New Mexico, the New Mexico College of Agriculture and Mechanic Arts and the New Mexico Insane Asylum. Originally, however, this section was a part of the same act which created the School of Mines, and as it appears in that act, it reads as follows:

"No employe or member of any of the boards created by this act," etc.

It will be noted, therefore, that this section was intended to apply to the State School of Mines, among other institutions of the state, and it is quite clear that it was not the intention of the legislature in the provisions in the Code, to eliminate the State School of Mines from the operation of the section.

The next question involved is whether the writing of a policy of insurance upon the property of the institution falls within the prohibition of the act.

If it does, it must be prohibited by the part of the act which covers the "furnishing of supplies." Ordinarily, the word "supplies" would not include the writing of an insurance policy, but there is no question but what it was the intention of the legislature to prohibit any member of any Board of the state institutions from being interested in any contract which might result in pecuniary benefit to such member, and there are some cases which have judicially defined the word "supplies" so as to include such a case.

In the case of Gleason vs. Dalton, 51 N.Y. Sup. 337, it was held that the word "supplies" as used in reference to a city in its broad sense, embraced anything which is furnished to that city or its inhabitants; and in the case of The Farmers' Loan & Trust Company vs. City of New York, 19 N.Y. Sup. Ct. 80, it was held that the word "supplies" included anything yielded or offered to meet a want. The Standard Dictionary defines the word "supplies" as "that which is or can be supplied, available aggregate of things needed or demanded."

Under the definitions above mentioned, we are of the opinion that the writing of an insurance policy might be considered as within the prohibition of the section of the statute heretofore mentioned, and, therefore, hold that a member of a Board of Regents of a state institution should not be interested in the writing of an insurance policy upon the property of the institution.