

**School House, Site for. Site for School House, Selection or Purchase of. Election for School House Site, Majority.**

Where it is sought to select, purchase or sell a school house site in a third class district, a majority of the voters present and voting for the proposition at an election held for the purpose, is sufficient, and the board of trustees should carry out the will of the voters thus expressed.

May 15, 1916.

Hon. C. A. Linn,  
County Attorney,  
White Sulphur Springs, Montana.

Dear Sir:

I am in receipt of your recent letter setting forth that:

"School District no 8 of Meagher County, Montana, includes the town of White Sulphur Springs, and extends several miles outside the town, and is a District of the third class. In the southern part of the district is a community which has upward of thirty children of school age, and they have no school facilities, it being from five to twelve miles to the school house in town. The Board of Trustees are willing to submit the question of voting bonds to build a school house and are anxious to provide a school for them, but anticipate that it will be impossible to select a school site under the provisions of Subdivision 8, Sec. 508, page 232 of the Session Laws of the 13th Legislative Assembly, as construed in an opinion rendered by Attorney General Kelly in an opinion to Hon. J. D. Taylor and reported in Vol. 5 of the Opinions of Attorney General at page 531, for the reason that there are only a small percentage of the electors of the district interested in the location of this school house. There are probably four hundred or more electors in the district, and not over fifty of them have any interest in the location of this new school house, and for that reason it would be impossible to get a majority of the electors of the district to attend a meeting for the selection of such a school house site, and to express their choice.

Under these circumstances, could the trustees legally adopt as a school site, the site selected by a majority of the electors present and voting at the meeting for the selection of such a site?"

The question involved in the former opinion of this office, to which you refer, had to do with the changing, and not with the selection or purchase of a school house site, and the conclusion reached, was that a change of school house site cannot be made unless consented to by a majority of all the electors of a district, irrespective of the number voting at an election to be held for such purpose. This conclusion seemed imperative by reason of the language of Section 508, para-

graph 8, together with the following proviso attached to Section 1600, Chapter 74, Laws of 1913:

“Provided, that it shall require the concurrence of a majority of the voters of the district to order the change of a school house site.”

The last paragraph of the opinion in *Tinkel v. Griffin*, 26 Montana, 426, lends credence to the doctrine that where the legislature gives positive directions requiring the application of such a rule, it will be enforced.

The proposition which you advance, presents a different phase of the question. The proviso above quoted does not apply, but so much of the Section as is applicable, reads as follows:

“Whenever, in the judgment of the board of trustees of any school district of the third class, it is desirable to select, purchase, exchange or sell a school house site \* \* \* the district board, shall without delay call a meeting at some convenient time and place fixed by the board, to vote upon such question of selection, purchase, exchange or sale of school house site. \* \* \* If a majority of the voters present at such meeting shall by vote decide to select, purchase, exchange or sell the school house site, the board shall carry out the will of the voters thus expressed.”

This language would be conclusive of the proposition were it not for the terms of Paragraph 8, Section 508, above referred to. It is a general proposition of law that effect must be given to every part of a statute, if possible, and none should be considered meaningless, if it is possible to give effect to it.

*Stadler v. City of Helena*, 46 Mont. 128, 127 Pac. 454.

Where two sections of a statute are inconsistent, the latter will govern, if it does not conflict with the Act generally.

*Clark v. Mahr*, 34 Mont. 391, 87 Pac. 272;

See also Notes, 6 Ann. Cas. 860, 19 Ann. Cas. 149.

With these rules of construction in mind, it may be well to quote the following from *Tinkel v. Griffin* above mentioned:

“It is the theory of our government that those electors control public affairs who take a sufficient interest therein to give expression to their views. Those who refrain from such expression are deemed to yield acquiescence.”

*Tinkel v. Griffin*, 26 Mont. 432.

I am, therefore, of the opinion that in the case you mention, the provisions of Section 1600 should govern. In fact its provisions should be held to govern in all cases where it is sought to do any of the things mentioned in the Section, except the changing of a school house site, and as to such, the opinion heretofore rendered and referred to by you, should govern.

Yours very truly,

J. B. POINDEXTER,

Attorney General.