

School Trustees—Disposition of Case When Tie Vote Occurs in Election.

In the event of a tie vote for election of school trustees, a vacancy exists and the County Superintendent of Schools should appoint someone in the district qualified to fill the vacancy.

William L. Bullock, Esq.,
County Attorney of Pondera County,
Conrad, Montana.

My dear Mr. Bullock:

I have your inquiry in regard to the proper procedure in the case of a tie vote cast for two candidates for the office of School Trustee.

Neither Article VII, Section 2 of our Constitution, nor the general laws relating to elections for state, county and township officers, make reference to tie votes for school trustees. They provide generally, however, that in case of a tie vote a vacancy exists, and the same rule may be applied to elections of school trustees. This is also the general rule of law as to tie votes, where provision is not made by statute. (20 C. J. 209.)

Section 11 of Chapter 196 of the Session Laws of 1919 provides:

“When any vacancy occurs in the office of trustee of any school district by death, resignation, failure to elect at the proper time, removal from the district, or other cause, the fact

of such vacancy shall be immediately certified to the County Superintendent by the Clerk of the school district, and the County Superintendent shall immediately appoint in writing some competent person who shall qualify and serve until the next annual school election."

It is, therefore, my opinion that in the event of a tie vote for School Trustee, a vacancy exists and such fact should be certified to the County Superintendent of Schools by the clerk of the school district, and the County Superintendent should make an appointment in writing as above provided.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.