

**School Districts—Division of—Adjustment of Indebtedness—Ownership of Buildings Donated by Local Residents and Situated Upon Privately Owned Land.**

Buildings that have been constructed upon land owned by private individuals, when no conveyance has been made to the district, should not be taken into account in adjusting indebtedness on a division of a school district.

If the title to any building has passed to the school district without conditions or reservations, the school district is the owner of the building, and it should be taken into consideration in the adjustment of indebtedness, the same as though constructed with school funds.

Miss May Trumper,  
Superintendent of Public Instruction,  
Helena, Montana.

My dear Miss Trumper:

You have submitted to me the question of whether buildings, which have been constructed by donated labor and used for school purposes, should be taken into consideration in adjusting the indebtedness between the old and new school districts on a division of the district. Attached to your letter is one from Miss Laura M. Carter, Superintendent of Schools of Musselshell County, from which I quote the following:

"In the new district No. 89 there are six rural schools, three of which I understand were not built with bond money, that is, practically all of the work and material were donated and only a little school money used to buy material for finishing up the building. District No. 89 of course feels that it should not assume indebtedness for the full value of these buildings since most of it was donated. Would the fact that some of the rural schools are built on land owned by private parties which has never been deeded to the district make any difference in apportioning the indebtedness?"

The answer to your question would depend upon the intention of the parties who constructed the building. Did they intend to donate or dedicate the building to the district without any reservations or conditions, either express or implied, or did they merely intend to furnish the district with a building to be used for school purposes, retaining title in themselves.

School Boards have always had power to build or rent schoolhouses. Manifestly, the use of a building could be donated to a school district rent free without conveying or intending to convey the title.

One of the powers possessed by School Boards is to build or remove schoolhouses, and to purchase or sell school sites when directed by a vote of the district so to do.

Sec. 1600, Chap. 76, Laws of 1913, as amended.

See, also, Sec. 875, Rev. Codes of 1907.

In view of this provision of our statutes, some significance must be attached to the fact that no deed or conveyance of these buildings, with the ground on which they are situated, has ever been made to the district. The inference to be drawn from this failure to convey is that those, who were responsible for the construction of the building, did not intend to subject it to sale or removal upon a future vote of the district, including persons who had no part in its construction.

I am of the opinion that, as to buildings which have been constructed upon land owned by private individuals and no conveyance made to the district, they should not be taken into account in adjusting indebtedness on a division of the district; that if title to any

of the buildings has passed to the district, without conditions or reservations, the district is the owner of the buildings, and they should be taken into consideration in the adjustment of indebtedness the same as though constructed wholly with public school funds.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.