

**Private Schools, Use of School House—Sectarian Instruction,
Not Permissible in Public School.**

The inhabitants of any number of school districts may form an association for the purpose of maintaining a private school and of giving christian instruction therein, and may use the public schools for such purpose, with the consent of the district. Such private school is not entitled to receive any portion of public moneys, nor can taxes be levied in support thereof, even with the consent of the taxpayer; and, unless a public school is maintained, as provided in Section 1757, Political Code, as amended, the district cannot participate in the distribution of any school moneys, nor can sectarian instruction be permitted in a public school.

Helena, Montana, June 27, 1905.

Hon. W. E. Harmon, Superintendent of Public Instruction, Helena, Montana.

Dear Sir:—I am in receipt of your favor of the 23rd instant, requesting opinion from this office upon the following proposition:

“Two districts have formed a union of christian instruction, with the idea of forming a private school and giving up the regular districts. They ask if they would be privileged to use the two school houses” for such purpose.

As heretofore stated in letter from this office, dated March 4, 1905, a school district cannot be abandoned. But there is nothing in the law to prevent the people of any school district, or of any number of school districts, from associating themselves together for the purpose of maintaining a private school, and of giving christian instruction in such school, nor is there anything in the law that forbids the

use of a public school house for such purposes, provided the trustees of the district consent to such use and the same does not interfere with the public school. The school house is the property of the school district, erected for the purpose of maintaining a public school, and it cannot be used for any other purpose except by consent of the district. No public money can be drawn to support a private school, nor can any taxes be levied or collected therefor, even though the taxpayers consent to such tax.

If it is intended that children attending such private school shall not attend a public school, the compulsory education law must be kept in view, and unless the district maintains a public school, as provided in Section 1757, Political Code, as amended by the laws of 1903, p. 155, it is not entitled to participate in the distribution of any school moneys, and if a public school is maintained no sectarian instruction can be permitted therein. (Article III., Section 4, Constitution of Montana.)

Respectfully yours,

ALBERT J. GALEN,

Attorney General.