

School Trustees, Authority to Rent Schools for Dancing.

Section 1797, of the Political Code, as amended by the laws of 1897, enumerate the powers of a school board and should be strictly construed, and as a general rule they have no authority to exceed the powers expressly vested in them by statute, and the authority to rent conferred by subdivision 5 of said section

means not to rent a school house belonging to the district to private individuals but to rent a building for school purposes when one is needed by the district.

The school trustees, being the guardians of the property and interests of the school district, there can be no objection to their permitting the use of the school houses for dancing, so long as it does not interfere with or interrupt the school, there being no prohibition in the law as against such use.

January 27, 1905.

Mr. A. J. Walrath, County Attorney, Bozeman, Montana.

Dear Sir:—I am in receipt of your favor of the 17th, asking opinion of this office as to whether school trustees may rent a school building belonging to the district to individuals for purposes of public entertainment, such as dancing.

In answer to your request I give you the following as my opinion. Section 1797, of the Political Code, as amended by the laws of 1897, p. 130, enumerates the powers vested in school trustees, and, as a general rule, they have no right whatsoever to exceed the powers which are expressly vested in them by law. The language used in Subdivision 5 of said Section is "to rent, repair and insure school houses." The word "rent", as therein used, means to rent a building for school purposes when the same is needed by the district, and does not confer upon them the authority to rent out to private parties any school buildings belonging to the district nor to sub-let any building rented by the school trustees and used as a school house.

However, there is no prohibition anywhere in the law as against using of school houses for dancing or other innocent amusement, if the people of the district so desire and the trustees, who are made the guardians of the property and interests of the school district, tolerate it. They are not conferred by law with express authority to permit school buildings to be thus used, but so long as objection is not made, and the people of the district desire it, and the school is not in any way interrupted or interfered with, I do not believe that they should be held to the strict letter of the law. This is a matter which should properly be decided by the board of trustees themselves, reference being had to the circumstances existing in each particular community.

Yours very truly,

ALBERT J. GALEN,
Attorney General.