

**District School, Library of. Library, of District School. School Trustees, Authority to Buy Reference Books. Special Tax, Right to Use for Reference Book. Tax, Special Authority to Use. Reference Book, Right of Trustee to Buy. Schools, Right to Buy Reference Book for.**

The law authorizing the establishment of school district libraries, does not deprive the school board of right to buy reference books.

School Board may use moneys raised by special tax for purchase of reference books when necessary to course of study required by law.

February 26, 1916.

Hon. H. A. Davee,  
Superintendent of Public Instruction,  
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 23rd instant, submitting the questions:

1. Does the law authorizing the establishment of school district libraries as provided in Chapter 12 of Chapter 76, Session Laws of 1913, have the effect of preventing the school board from using any portion of the money raised by special tax for the purchase of reference books, etc., for the use of the school?

2. Has the school board the authority to use any portion of the moneys raised by special tax as provided in Section 2002 of said Chapter 76, Laws of 1913, for the purchase of reference books for the use of the school?

The phrase "reference books" is rather comprehensive and general, but we take it that it has reference to books necessary to enable the teacher to give the required instruction to the students in the courses of study required by law.

Chapter 12 of Chapter 76, Laws of 1913, confer authority upon the Board of Trustees to establish a library, and further provides the method of obtaining moneys therefor; that is by donation, and by using not exceeding ten per cent "of the county school fund annually apportioned to the district"; provided that such sum shall not exceed \$50 for each district. The library referred to in this section is wholly distinct from text books, for free text books are not furnished except after proceedings had as required by the provisions of Section 1811 of said Chapter. In fact the word "library" means something additional to the ordinary text books used in the course of study.

It therefore, necessarily follows that the authority to establish a library in the district does not deprive the Board of School Trustees of any authority possessed by it to make purchase of the necessary reference books as above defined.

2. The special tax authorized by Section 2002 must be used "to maintain the schools \* \* \* to furnish additional school facilities \* \* \* to furnish such appliances and apparatus as may be needed."

If the school board cannot expend any of this money for reference books, such as dictionaries, etc., then the district could not make such purchase after the library fund above referred to is exhausted.

The phrase "appliances and apparatus" ordinarily has reference to something of a mechanical nature.

*Morrison v. Beachtold*, 93 Maryland, 319, 48 Atlantic, 926;

*American Fire Insurance Co. v. Bell* (Tex) 75 S. W., 319.

However, the term "appliance" had been given a much broader meaning when used in connection with the public schools, and has been defined as

"anything brought into use as a means to effect some end".

*Honaker v. Board of Education*, 42 W. Va. 170, 24 S. E. 544;

32 L. R. A. 413, 57 Am. St. Rep. 847.

An Indiana statute provides that the trustees shall have authority, and it is their duty to provide

"furniture, apparatus and other articles and educational appliance, necessary for the thorough organization and efficient management of said schools".

In interpreting this statute the Supreme Court referring to Jackson School Township v. Hadley, 59 Ind., 534, where a bill for the purchase of a Webster's Dictionary was sustained, said:

"So far as authority for purchasing books of any character, the case of Jackson School Township v. Hadley, supra, stands alone. In our opinion it is going to the very border line to construe this section of the statute as authorizing the purchase of maps, charts tellurians and other like articles and apparatus, and dictionaries and books of reference; but there are greater reasons for placing such construction upon this section than to construe it to authorize the purchase of such books as there is sought to be a recovery for in this action. Blackboards, charts, maps, tellurians and dictionaries are a class of articles, apparatus and books which are not required for each individual scholar, but one of each would be sufficient, in most cases, for the whole school, and could be used by the teacher in giving instructions to the pupils. No person being required to furnish such common property for the benefit of the whole school, they can only be supplied by the trustees. The authority, certainly, cannot be extended to the right of purchasing general text-books for the use of each of the individual pupils."

Honey Creek School Township v. Barnes et al., 119 Ind. 213, at page 215.

A West Virginia statute provides among other things, that the Board of Education shall provide "furniture, fixtures and appliances". The Supreme Court in interpreting this statute said:

"Appliance is anything brought into use as a means to effect some end. An educational appliance is something necessary or useful to enable the teacher to teach the school children. No educational means of imparting instruction to school children is more essential than the proper school books; therefore, according to the argument in this case, it is the duty of the board to provide them. But no one, I believe, contends for the conclusion to which this reasoning leads us. There must be some additional qualifying restriction. The appliance must be something like a blackboard, map, or dictionary, in that one or two may be enough for the use of the whole school, and can be used by the teacher in giving instruction to the pupils. No person being required to furnish such common but necessary property for the benefit of the whole school, they can only be supplied by the board of education.  
\* \* \* But there are still other necessary restrictions. It must not be a school book in disguise. This is vitally important. \* \* \* etc."

Honaker v. Board of Education, 32 L. R. A. 413.

Subdivision 6, Section 508, Chapter 76 of the Laws of 1913, confer upon the Board of Trustees, authority "to provide for school furniture, and for everything needed in the school house, or for the school board." This statute is not substantially different from the statutes above quoted from Indiana and West Virginia, and we believe should be

given the same interpretation, and subject to the restrictions that a school board cannot use this authority for the purchase of text-books, or the building up of a district library, but that the "reference books" purchased must be something required to enable the teacher to give proper instruction in the studies, courses and grades established and required to be taught, such as dictionaries, etc.

I am of the opinion that the authority exists in the school board to make such purchase from the moneys received from the special tax authorized by said Section 2002, Chapter 76, Laws of 1913.

Yours very truly,

J. B. POINDEXTER,

Attorney General.