

School Districts—Authority to Build Teacherage.

A school district has no authority to expend school funds for the purpose of building a teacherage.

Nov. 8th, 1917.

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

My dear Miss Trumper:

You have requested my opinion upon the question of whether or not the trustees of third class school districts have the authority to use money in the general school fund for the purpose of building

a teacherage, without submitting the proposition to a vote of the people. It was held in *State ex rel Bean vs. Lyons et al*, 37 Mont. 354, that Section 1797 of the Political Code of 1895, which has been re-enacted as Section 508 of the Present School Law, is not only a grant of power to the Board of Trustees but is also a limitation of their authority in the premises. Section 2004 of the School Law provides that county school moneys may be used by the County Superintendent and Trustees for the various purposes as authorized and provided in the Act, **and for no other purpose**, except that in any district, any surplus in the general school fund to the credit of said district, after providing for the expenses of not less than nine months school on a vote of the qualified electors of the district, may be used for the purpose of retiring bonds and improving buildings and grounds. But, you will notice that the only authority granted by this section in connection with school buildings is that of improving the same. School districts may issue bonds for the purpose of building and furnishing one or more school houses, and purchasing land necessary for the same. As the authority to issue bonds is always strictly construed, I do not believe that a school district would have the authority to issue bonds for the purpose of building a teacherage.

In vol. 4 of the Opinions of the Attorney General, pages 302-3, you will find a letter to your predecessor dated Nov. 11, 1911, in which it was said: "If a school board has the authority to construct a dwelling house for a janitor it might with equal propriety construct dwelling houses for the teachers. There must be a limit somewhere, and the powers of boards are strictly construed."

I am unable to find anywhere in our School Law any provisions which could be interpreted to give a school district the authority to use school funds for the purpose of building a teacherage.

Respectfully,

S. C. FORD,
Attorney General.