

School District Bond Issue—Notice of Election.

The notice of election for a bond issue must contain not only the time and place of election but also the following propositions: (1) The amount of bonds, (2) the rate of interest which they shall bear, (3) the time when payable, (4) the time when redeemable, and (5) the purpose for which the money is to be used.

February 20, 1917.

Hon. Sidney M. Miller,
Register of State Lands,
Helena, Montana.

Dear Sir:

You have submitted to me transcript of proceedings of School District No. 39, Meagher County, Montana, in connection with the issuance of coupon bonds by the district for the purpose of building and furnishing a school house, together with a copy of the ballot used at the election and notice of sale of bonds.

This transcript shows that the election was held at a place other than the district school house. Section 502 of the school law, Chapter 76, 1913 Session Laws, provides that the annual election of school trustees shall be held at the district school house, if there be one, and if there be none, at a place designated by the board of trustees. Section 2016 provides that an election upon the question of a bond issue shall be held in the manner prescribed for the election of school trustees. Therefore, the resolution of the trustees designating the place of election should state that there is no district school house.

The notice of election simply states that a special election of School District No. 39, "for the purpose of voting on bonds and school site" will be held at a certain time and place.

Section 2015, Chapter 76, 1913 Session Laws, provides that the board of trustees shall, whenever a majority of the trustees so decide, submit to the electors of the district the question whether the board shall be authorized to issue coupon bonds to a **certain** amount, not to exceed three per cent of the taxable property in the district, and bearing a **certain** rate of interest not to exceed six per cent per annum, and payable and redeemable at a **certain** time, for the purpose of building and furnishing one or more school houses in said district, and purchasing land for the same. This Section of the present school law is a re-enactment of Section 1003 of the Revised Codes of 1907 which was Section 1960 of the Annotated Codes of 1895. The provisions of Section 1950 of the Compiled Statutes of 1887 were substantially the

same. Section 2016 of the present school law provides that the election shall be held in the manner prescribed for the election of school trustees, and further provides that the ballot shall be in form as follows:

“Shall bonds be issued and sold to the amount of.....
dollars, and bearing not to exceed.....per cent interest,
and for a period not to exceed..... years, for the pur-
pose of purchasing a school site and building a school house
thereon and for furnishing the same.

BONDS. Yes

BONDS. No.”

This portion of the Section is a re-enactment of Section 1005 of the Revised Codes of 1907. Section 1962 of the Annotated Codes of 1895, provided the form of ballot to be used at such an election, which was substantially the same as the form now provided in Section 2016 of the School Law, except that instead of the words “and for a period not to exceed.....years” it used the words “redeemable in.....years and payable in.....years.” The form prescribed by the present law adds the words at the end thereof “and furnishing the same.” This change in the form of the ballot was provided for in an act approved March 14, 1901, House Bill No. 60 of the Seventh Legislative Assembly, 1901 Session Laws, pages 125-6. Although there has been this slight change in the form of the ballot used at an election, yet there has been no change in the law relating to the question which is submitted to the electors by the trustees. And by the provisions of Section 2015 the question submitted to the electors is whether the board shall be authorized to issue coupon bonds (1) to a certain amount, (2) bearing a certain rate of interest, (3) payable and (4) redeemable at a certain time and (5) for the purpose of building and furnishing a school house and purchasing land necessary for the same. These are the propositions which are submitted to the electors and which the notice of election must contain, for it is through the notice of election that the matter is submitted to the electors. The notice, of course, must also contain the time when and the place where the election will be held. *Hauswirth v. Mueller*, 25 Mont. 156.

Our Supreme Court passed upon this very question in the case of *State v. School District No. 1*, 15 Mont. 133, and used the following language in its decision:

“That which the trustees may decide to submit to the electors, and upon which the electors shall vote, is plainly stated in the statute. It is whether authority shall be given to the trustees to issue coupon bonds in a certain amount (within the limit defined by statute) and bearing a certain rate of interest (within the limit fixed by the statute), and payable and redeemable at certain times and for certain purposes. So it seems that, in an election upon the question of issuing bonds of a school district, the matter submitted to the electors contains several propositions, as follows: 1. The amount of bonds; 2. The rate of interest which they shall bear; 3. The

time when payable; 4. The time when redeemable; and 5. The purpose for which the money is to be used. * * *

"An election for the issuance of school bonds is a special election, held pursuant to notice. The electors had no notice by any general law, as they have of a general election. The notice of election was therefore indispensable. But the alleged notice in the matter before us did not notify. The electors should have been permitted to decide what rate of interest they were willing that the district should pay. This item was important, and the statute considered it so. Whether the district should pay one rate of interest or another was a question whether the district should or should not pay out a certain sum of money as interest. The difference between one rate of interest and another is a sum of money to be paid, just as much as the fact of the bonds itself. And the statute provides that the electors shall decide upon the payment of this amount just as positively as that they shall decide upon the amount of the principal sum that they shall borrow. The time of payment and redemption is also a matter of importance to the electors. It is of interest to the borrower (and the electors are in fact the borrowers) to decide whether he wishes to make a short loan or a long loan, and whether he shall have the privilege to redeem in a short time, or whether he must allow the principal to stand, and he be compelled to go on and pay interest, after the date when he thinks that he can lift from himself the burden of this debt. These three important matters the electors never had an opportunity to vote upon
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In view of the foregoing I am of the opinion that this notice of election did not contain the several propositions required by law, and that therefore it will be necessary for a new election to be held and proper notice of the same given.

Respectfully,

S. C. FORD,

Attorney General.