

**Schoolhouse—Site, Change Of.**

A schoolhouse site may be moved upon the advice of the County Superintendent and County Health Officer for good cause.

May 10th, 1919.

Robert N. Jones,  
County Attorney,  
Harlowton, Montana.

Dear Sir:

I am in receipt of your letter of recent date regarding the changing of a site selected for a school house, at a recent election held for that purpose, necessitated by the cutting off of a portion of the old district and the

creating of a new district, leaving the school house site in an extremely inconvenient place. Section 1600 of the Session Laws of 1913, page 265, as amended by Chapter 42 of the 1915 Session Laws, page 45, provides:

"If a majority of the voters present at such meeting shall by vote decide to select, purchase, exchange or sell the school house site, \* \* \* any sites so changed cannot again be changed within three years from the date of such action.

"The school site shall be selected in a place that is convenient, accessible, suitable and well drained."

The provisions of House Bill No. 303 are as follows:

"Whenever in the judgment of the board of trustees of any school district of the third class, it is desirable to select, purchase, exchange or sell a school house, or whenever petitioned so to do by one-third of the voters of such district, the district board, shall without delay call a meeting at some convenient time and place fixed by the board, to vote upon such question of selection, purchase, exchange or sale of school house site. Such election shall be conducted \* \* \* in the same manner as at the annual election of school officers. If a majority of the electors of the district voting at such meeting or election shall be in favor of selecting, purchasing, exchanging or selling the school house site, the board shall carry out the will of the voters thus expressed; provided that all sites so chosen must be approved by the county superintendent of schools and the county health officer, and also provided that any sites so changed cannot again be changed within three years from the date of such action except upon the advice of the county superintendent of schools and the county health officer."

A comparison of this section with the former sections contained in the Session Laws of 1913, as amended by the Session Laws of 1915 discloses that the only essential difference in the two acts is the provision contained in the act of 1919 that the county superintendent of schools and the county health officer may advise such change within three years from the date of the last election. Under the provisions of the act as it existed formerly a selection of a site once made could not be changed again for a period of three years, even though the site during that time should become inconvenient, inaccessible, unsuitable or unsanitary for school purposes. The provisions of the present law still provide that the site shall not be changed within three years but also includes a modification. This modification was inserted by the legislature not to provide a means by which the site would be changed upon a petition by the people, but for some cause, which in the judgment of the county superintendent and that of the county health officer renders the change necessary. This is not an arbitrary discretion vested in the county superintendent of schools and the county health officer but is one of sound judgment in each particular case. If, therefore, something has occurred since the selection of the former school site which in the sound judgment of the county superintendent of schools and the county health officer should move them to advise a change, such change can be made upon their advice. This advice must be incurred in by both officials. The advice should be given to the board of school trustees, in

districts of this class, who should proceed to call a meeting at a convenient time and place fixed by the board to submit the matter to a vote and the election should be held as provided by said Section 1600.

Respectfully,

S. C. FORD,

Attorney General.