

State Vocational School for Girls—Appropriations For— Lands and Buildings.

House Bill No. 48 provides for the maintenance of a Vocational School for Girls, and money provided for by House Bill No. 437 may be used for the purchase of land and the erection of buildings.

Helena, Montana, May 17th, 1919.

Dr. Cordua,
Power Block,
Helena, Montana.

Dear Doctor:

You have requested an opinion from me as to whether or not the monies appropriated by the legislature, House Bill No. 48 and No. 437, can be used to purchase land and equip buildings for the use of the State Vocational School for Girls.

Section 1 of House Bill No. 48 establishes a state vocational school for girls to be located at a place to be selected by the Executive Board and approved by the Governor and State Board of Education. Section IV, provides for the appointment of the Executive Board, and Section VI, for the organization of said board and the selection of its officers, and further provides "thereafter said board shall take steps to secure a suitable tract of land of not less than one hundred sixty acres in the name of the State of Montana, by lease, gift or purchase, and proceed to make such improvements and erect such buildings as may be necessary for the establishment of said school. * * * Immediately upon securing the land as aforesaid, under this act the board shall establish a permanent office at or near such tract and the Secretary shall keep any and all books of the board which shall be opened for inspection. * * * The Chairman shall preside at all meetings of the board, superintend the performance of all contracts for labor and material which have been authorized by the board, and see that the terms of each contract are faithfully performed."

Section VIII authorizes the State Board of Land Commissioners to lease to the executive board any parcel of land of the state school lands selected by said executive board, and further provides, that in the event said executive board cannot secure suitable land, then said board is "authorized to contract, by lease, a suitable tract of land or to purchase the same by contract or otherwise. * * *" Section IX provides that the method of letting contracts for the erection of buildings and for improvements, and the purchase of materials and supplies needed for said school. Section X provides that meetings of the Executive Board shall be held on

the first Tuesday of March, June, September and December of each year. By the provisions of Section 11, the principal of the school shall make at every regular meeting reports to the board, and shall appoint and discharge all employees. The general powers and duties of the Executive Board are contained in Section 16 which also provides for the erection of additional buildings.

Section 17 provides "for the purpose of carrying into effect the provisions of this Act there is hereby appropriated twenty-five thousand (\$25,000.00) dollars for the support and maintenance of said school for the two year period ending February 28th, 1921."

These are the salient features of said Act which bear upon the question submitted.

House Bill No. 437, introduced by the Committee on Appropriations, and entitled "An Act appropriating money for the maintenance and betterments and expenses of the several state institutions of Montana for two years, commencing March 1st, 1919, and ending February 28th, 1921." Section 1 of said Act, among other things, provides "for vocational training schools for girls if established, twelve thousand (\$12,000.00) dollars." For the year ending March 29th, 1920. Section 11 appropriates for the vocational training school for girls, if established, fifteen thousand (\$15,000.00) dollars for the year ending February 28th.

House Bill No. 48 was referred to the Committee on Appropriations on January 22nd, and reported back with amendments and carrying the appropriation mentioned about, on February 21st, and as stated above. House Bill No. 437 was introduced by said Committee.

A careful study of House Bill No. 48 clearly indicates that the legislature intended that the provisions of the act should be carried out. Throughout the bill the language used clearly states that in the event that land, buildings, etc., are not donated, then the executive board shall buy land and erect the necessary buildings. This idea is further borne out by the appropriation contained in House Bill No. 437. House Bill No. 48 appropriates money for the support and maintenance of the school, so for what purpose was the money appropriated in No. 437 to be used for unless to buy land and construct buildings in the event the same were not donated by public spirited citizens of the State.

Unless the money appropriated can be used for the purpose of purchasing a site and constructing buildings thereon (unless sufficient donations are made) the Act itself becomes inoperative. We can not presume that it was the intent of the legislature to enact a law which should be inoperative or enact a law, the operation of which must depend upon the generosity of the citizens of the State, or that its operation should depend upon future legislative enactment. The sections above referred to relating to the duties of the executive board are mandatory, and to my mind, clearly indicate the legislative intent.

I am, therefore, of the opinion that the provisions for the support and maintenance of the institution have been provided for in House Bill No. 48, that the money appropriated by House Bill No. 437 may be used to purchase land and erect buildings thereon for the use of said school.

Respectfully,

S. C. FORD,
Attorney General.