

### **Schools—Trustees—Gymnasium.**

Section 1205, Revised Codes of 1921, construed as not authorizing the expenditure of school moneys for the purpose of renting a building to be used as a gymnasium.

L. R. Daems, Esq.,  
County Attorney,  
Harlowton, Montana.

My dear Mr. Daems:

You have submitted to this office the question of whether the Board of Trustees of a school district is legally authorized to advance \$500.00 as rent for a building to be used as a gymnasium.

There is no provision of law authorizing the Board of Trustees to expend school money for a gymnasium.

Section 1205 of the Revised Codes of 1921 provides as follows:

"County school moneys may be used by the County Superintendent and Trustees for the various purposes as authorized and provided in this 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 said district may be used for the purpose of retiring bonds and improving buildings and grounds, or erecting school buildings, teacherage, or barn. If any school money shall be paid by authority of the Board of Trustees for any purpose not authorized by this chapter, the Trustees consenting to such payment shall be liable to the district for the repayment of such sum, and a suit to recover the same may be brought by the County Attorney, or if he shall refuse to bring the same, a suit may be brought by any taxpaying elector in the district."

In *State ex rel. Bean v. Lyons*, 37 Mont. 354, 96 Pac. 922, the Court, in construing the powers of the Board of School Trustees, held that statutes granting and defining powers of municipal and quasi-municipal bodies such as school districts will be construed not only as a grant of power but also as a limitation thereon, both as to its extent and the mode of its exercise.

See also *Keeler Bros. v. School Dist. No. 2*, 205 Pac. 217.

*Yegen v. Bd. of County Com'rs*, 34 Mont. 79.

It is, therefore, my opinion that a School Board is not legally authorized to advance money for rent of a building to be used for a purpose which is not authorized under any provision of the statute.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.