

School Districts—Elections—Polling Places.

School districts of the third class have power to provide an additional polling place to accommodate electors who by reason of physical obstacles cannot be accommodated by a single polling place. The necessity for the additional polling place should appear in the minutes.

February 7, 1928.

C. H. Roberts, Esq.,
Deputy County Attorney,
Glasgow, Montana.

My dear Mr. Roberts:

Your letter and opinion were received relative to the creation of more than one polling place in a district of the third class. You call

attention to section 991 and to its history and conclude that this section applies to districts of the first class.

This section was formerly a part of an act approved March 3, 1899, and appeared in the codes of 1907 as section 853. As enacted, it provided that the board of county commissioners shall at least thirty days before the annual election of school trustees designate and establish a suitable number of polling places. At that time elections in first class districts were under the supervision of the board of county commissioners and in second and third classes they were under the supervision of the board of trustees. (See sections 851 and 852 of the code of 1907.)

In the codes of 1895 appeared a section (1773) providing that in cities having a population of four thousand or more, the trustees may establish not less than three polling places. This was a part of the act of March 11, 1895. The annual election of trustees was required to be held in the district on the first Saturday of April in each year at a district school house, if there be one. This was also a part of the act of March 11, 1895, so that as originally enacted this section (now 987) applied to districts of all classes.

Section 988 contains a provision requiring the names of all candidates for membership on the school board to be posted at each polling place at least five days next preceding the election and would indicate that more than one polling place was contemplated.

Standing alone, section 991 would apply to second and third class districts as there is nothing in it to indicate that it was intended to apply only to first class districts. This conclusion is strengthened when we examine chapter 76, laws of 1913, whereby the legislature enacted an entirely new school code.

Section 502 of chapter 76, of which section 991 was a part, deals with school trustees and elections, and while it appears as subdivision 1, part b of 3, under which heading there are 12 subdivisions, with few exceptions, all these subdivisions are of general application in that they are not limited to first class districts.

Under the codes of 1895 additional polling places were intended to accommodate additional voters who could not be accommodated at one polling place. No provision was made to accommodate a voter by reason of the distance he would be required to travel in order to vote, or by reason of the fact that he might not be able to reach the polls owing to physical barriers such as a swollen river which he could not cross.

It is therefore my opinion that the general power to hold elections implies the power to provide a sufficient number of polling places to accommodate the electors, whether the reason for the additional polling places is the fact that there are too many to be accommodated at one place, or by reason of a physical barrier cutting the district in two and making it impracticable to reach the polling place.

The minutes of the board of trustees should specifically set forth the necessity for the additional precinct, define its boundaries, and pro-

vide for additional judges to conduct the election. The county clerk should be notified of the boundaries of the precinct and be required to furnish poll books for the additional polling places, and the notice of election should specifically designate the polling places.

Very truly yours,

L. A. FOOT,
Attorney General.