

"In the northern part of McCone County are a number of young people of high school age who attend high school at Wolf Point in Roosevelt County. The county commissioners of this county are willing to pay, and the school authorities at Wolf Point are willing to accept Seventy-five (\$75.00) Dollars per year for such students as may attend their high school. The commissioners do not feel that they can pay more and the school authorities do not feel that they can take less.

"Under Section 82 of Chapter 148 of the 1931 Session Laws it is made the duty of the commissioners to pay Fifty Cents (50c) for each day of attendance of such students. In an ordinary school year of 180 days this would amount to Ninety Dollars (\$90.00) per year. However although Section 89 of Chapter 148 of the Session Laws of 1931 provides that the county superintendent of schools shall prepare and submit a budget to the board of county commissioners equal to Ninety Dollars (\$90.00) for each student whose attendance outside of his county has been authorized, you will note that this section was changed by Section 3 of Chapter 178 of the 1933 Laws so that the county superintendent is authorized to prepare a budget equal to only Sixty-five Dollars (\$65.00) for each student who attends high school outside his county. Nothing is done about repealing Section 82, Laws of 1931, reducing or otherwise affecting the payment of Fifty Cents (50c) per day for such students. What effect has Section 8 of Chapter 178, Laws of 1933, upon that section?"

Assuming that both section 82, Chapter 148, Laws of 1931, and Section 8, Chapter 178, Laws of 1933, are constitutional we believe that the board is limited to a sum equal to \$65.00 per year per student and that a greater amount cannot be paid.

If the two acts be deemed in irreconcilable conflict then the later act must control. Since the later act does not expressly repeal the earlier, and since repeals by implication are not favored and since the acts may not necessarily be irreconcilable, it is our duty to try to give some effect to both of them.

It is not unreasonable to assume that the 1933 law is only intended for guidance in making the budget and was not

#### Opinion No. 242

#### Schools—High Schools—Budgets— Students—Tuition.

HELD: Under Section 8, Chapter 178, Laws of 1933, an aggregate amount equal to \$65 for each student who attends high school outside his county may be budgeted and the entire aggregate amount may be used even though some of the students might drop out during the course of the year.

June 19, 1933.

You request an opinion from this office on the following matter:

intended to repeal our laws except where the two could not be harmonized. We do not think it means that any more than \$65.00 may be allowed for any student but that it means that an aggregate amount equal to \$65.00 for each student could be budgeted and that the entire aggregate amount could be used even though some of the students might drop out during the course of the year.

Possibly, also, the board might pay fifty cents per student per day for each day in attendance but after it had reached the aggregate sum equal to \$65.00 per student it could not pay more without violating the budget act.