

Opinion No. 201.**Schools—Election—Electors.**

HELD: Qualified electors who are taxpayers upon either real or personal property and whose names appear upon the last completed assessment rolls are qualified to vote at a school election held for the purpose of raising revenue in excess of the 10-mill levy provided for by law.

February 15, 1940.

Mr. Earl C. Ammerman
County Attorney
Livingston, Montana

My dear Mr. Ammerman:

You have submitted the following question for my opinion:

“What are the necessary qualifications to enable a person to vote upon the question of a school district holding an election for the purpose of raising money by taxation, in excess of the Ten (10) mill levy, as provided in Section 1219, R. C. M., 1935, and also what is the correct form of the oath, for the elector, at such election.”

Section 1219, R. C. M., 1921, as amended by Chapter 120, L. 1925, provided that only legal voters of the district who were taxpaying freeholders therein could vote at an election held for the purpose of raising revenue for a school district in excess of the 10-mill levy provided for by law.

Chapter 144, L. 1935, amended Chapter 120 by providing that qualified

electors residing within the district who are taxpayers upon property therein and whose names appear upon the last completed assessment rolls could vote at such an election.

A conflict exists between Section 1219 and Section 1223 and under the rule of statutory construction Section 1219, as amended, being the last enactment, amends Section 1223 by implication. The judges of the election in administering the oath, or affirmation, should substitute the words, "taxpayer upon property" for the words, "taxpaying freeholder."

A qualified elector residing within the district who is a taxpayer upon either real or personal property and whose name appears upon the last completed assessment roll is eligible to vote at such election.