

No. 421

STATE SOIL CONSERVATION COMMITTEE—MINORITY OF COMMITTEE, acts of—QUORUM—DELIBERATIVE BODY

Held: A minority of the State Soil Conservation Committee cannot transact business although its acts be concurred in by absentee members by mail.

May 28, 1942.

Mr. Truman C. Anderson
State Coordinator and Secretary
State Soil Conservation Committee
Bozeman, Montana

Dear Mr. Anderson

You have requested an opinion on the following problem:

May a minority of the State Soil Conservation Committee meet in session, take action on current business matters of the committee, and then submit such action to absentee members for concurrence by mail before such business is finally transacted?

Section 4, subsection C, Chapter 72 of the Laws of 1939, provides:

"A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination."

In 46 C. J. 1377 it is stated:

"A deliberative body acts only at a meeting."

At page 1378 of 46 C. J. the text provides:

"It is a well established parliamentary rule that a quorum of the body must be present in order to validate its action or to transact any business."

In the case of *Williams v. Commissioners*, 28 Mont. 360, 72 Pac. 755, the Montana Supreme Court—in construing the powers of the county commissioners—said:

"To bind the county by its contracts, it must act as an entity, and within the scope of its authority. Its members may not discharge its important governmental functions by casual sittings on drygoods boxes, or by accidental meetings on the public streets; and its chairman, unless lawfully authorized by the board to do some act, or acts, has no more power than has any other member of the board. The statutes do not vest the power of the county in three commissioners acting individually, but in them as a single board; and the board can act only when legally convened."

A quorum present at the meeting is necessary before any business can be transacted and the individuals of the committee as such have no authority to act. It is necessary they convene as a deliberative body and only such acts as result from the deliberation of a majority of the committee in a meeting are lawful.

It is my opinion the acts of a minority of the State Soil Conservation Committee which are concurred in by absentee members by mail are not valid or of any legal effect.

Sincerely yours,

HOWARD M. GULLICKSON
Attorney General