

**County High School—Proceeds of Sale of School Buildings—Into What Fund Payable.**

The proceeds of sale of County High School buildings should be paid into the general fund of the county.

R. B. Hayes, Esq.,  
County Attorney,  
Miles City, Montana.

My dear Mr. Hayes:

You have submitted the following statement and inquiry for my opinion: The county, by reason of the erection of a new County High School building, proposes to sell the old High School buildings together with the grounds upon which they are situated. You ask into what fund the proceeds of such sale should be placed.

The High School property is county property (Paragraph (b) of Subdivision 7 of Section 3104 of Chapter 76 of the Laws of 1913; *Panchot v. Leet*, 50 Mont. 314, 318.)

The taxes levied and collected for the purposes of the County High School are county taxes, levied by the Board of County Commissioners and collected as other county taxes are collected (Section 2108 of the School Laws, as amended by Chapter 115 of the Laws of 1915), and after collection are county funds. Section 2894 of the Revised Codes, as amended by Chapter 15 of the Laws of 1919, relating to powers of County Commissioners, provides in Subdivision 10 as follows:

"To sell at public auction at the court house door after thirty days' previous notice, given by publication in a newspaper of the county, or posted in five public places of the county, and convey to the highest bidder for cash any property, real or personal, belonging to the county, paying the proceeds into the county treasury for the use of the county."

It is to be observed that by this section the proceeds of a sale of county property are to be paid into the County Treasury, no particular fund being designated. In the absence of any designation such proceeds should be paid into the general fund.

While the Attorney General's office had not had occasion heretofore to pass directly upon this question, it was held by Attorney General Galen in Volume 1 of the Opinions of the Attorney General, page 235, that the County Commissioners have authority to sell a

portion of the County Poor Farm and use the proceeds for the purchase of adjacent property better adapted to poor farm purposes. Attorney General Kelly, in Volume 6, page 36, of the Opinions of the Attorney General, held that a block of land purchased by the county for court-house purposes, but which was not used for that purpose, could be sold by the County Commissioners, and that the proceeds of such sale should be paid into the County Treasury.

In the absence of any specific provision in regard to the disposition of the fund other than that contained in Chapter 15 of the Laws of 1919, *supra*, it is my opinion that the proceeds of the sale of County High School buildings should be paid into the general fund of the county.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.