

**Board of County Commissioners — Authority to Sell County Property on Credit.**

The Board of County Commissioners have no authority to accept anything but cash in payment for county property sold by public officers.

Board of County Commissioners,  
Plentywood, Montana.

Gentlemen:

You have asked my opinion as to whether the County Commissioners may sell a tractor on credit belonging to the county, accepting in payment therefor paper which the County Commissioners consider safe.

Authority is granted to the Board of County Commissioners to sell at public auction any property belonging to the county. This authority is found in Subdivision 10 of Section 2894 of the Revised Codes of 1907, as amended by Chapter 15 of the 1919 Laws, which provides as follows:

“10. 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.”

This statute gives authority to sell for cash only, and I find no other provision of the statute authorizing the sale of property on credit. This statute seems too plain and unambiguous to admit of any other construction.

In *Smith v. The Board of Supervisors of Barron County*, 44 Wis. 686, the court had under consideration this same question. In that case, however, the statute after authorizing the Board of Supervisors to sell, contained the following provision:

“Provided further, that the board of supervisors may, by an order to be entered in their minutes, prescribe the terms of sale and the rate of interest chargeable by such treasurer on such certificates.”

The court, in holding that this statute did not authorize the sale of certificates on credit, said:

"A construction of this language which would allow the board of supervisors to prescribe by such order, as the terms of sale, that payment might be made in anything beside money, or on credit, or that the county treasurer might enter into an executory contract of sale, or make a conditional sale, would be most dangerous and pernicious, and work incalculable mischief by uncertainty, insecurity, litigation and loss; consequences which certainly were never anticipated by the legislature.

"We must hold that the statute confers no power upon a county treasurer to make, and no authority upon the board of supervisors to order him to make, any other than an absolute and fully executed sale of tax certificates, and for cash in hand. The very language of the power itself, 'to sell and transfer by assignment,' must mean such a sale with present payment, and by assignment and delivery, and no other."

It is therefore my opinion that the Board of County Commissioners are without authority to accept anything but cash in payment for county property sold at public auction.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.