

Prison, Eastern State, Disposal of Lands Of. Experimental Station Near Billings.

The proceeds received from the sale of lands acquired for the abandoned Eastern State Prison and abandoned sub-experi-

mental station near Billings should be deposited with the State Treasurer to the credit of the General Fund.

Helena, Montana, Feb. 17, 1908.

State Board of Land Commissioners,
Helena, Montana.

Gentlemen:—

Your letter of the 14th inst. received, in which you request an opinion upon the following question:

“Into what fund should the receipts from sales and leases of the twenty acres near Billings flow? This is the tract of land which was traded in for the old prison site.”

By Section 10 of an Act approved March 3, 1893, (Laws of 1893, p. 194) an appropriation was made out of the general fund of the State for the erection of the eastern state prison. Pursuant to said act of the legislature the prison site was selected within three miles of the city of Billings. This prison was never completed.

The legislature in Chap. 118, Laws 1903, authorized the establishment a sub-experimental station near Billings, Montana, and by Section 3 of said act provided that the governor and secretary of state were authorized and empowered to either use the land theretofore acquired by the state for said eastern state prison, or, if such land, in their judgment, was not suitable for the purpose of such sub-experimental station, then they were empowered to convey such land in exchange for such suitable tract of land for a sub-experimental station as they might deem of at least equal value. Pursuant to such law of 1903, an exchange of land was made by the governor and secretary of state, but the sub-experimental station was never established thereon. The legislature by Chap. 188, Laws 1907, authorized the state board of land commisioners to sell and dispose of all lands acquired under and by virtue of said Chap. 118 of the Laws of 1903. Such sale to be on the same terms and conditions as provided by law for the sale and disposition of all other state lands. This last act shows that it was the intention of the legislature to abandon the sub-experimental station project near Billings.

From the above history of the legislation it appears that certain money was taken out of the general fund for the purpose of erecting the said eastern state prison, but that such project was abandoned and thereafter the land purchased with such money was appropriated for the purpose of a sub-experimental station, which project was abandoned, and, under the act of 1907, the land was converted into cash.

Therefore, in our opinion, this cash should properly go back to the fund from which it originally was appropriated, namely, the general fund of the State of Montana.

Very respectfully yours,

ALBERT J. GALEN,

Attorney General.