

**Free County High School, Power of Board of Trustees.
Trustees County High School, Authority to Build. Trustees
County High School, Authority to Use Accumulated Funds.**

If funds available to a board of trustees of a county free high school are sufficient to erect buildings or addition thereto which said board deem necessary for such school, and so long as the expenditure remains within the limit prescribed by Sec. 926 of the Revised Codes, such board has authority to use such surplus funds in such building; provided, however, that if the amount contemplated to be expended is in excess of ten thousand dollars the question must be submitted to a vote of the electors of the county.

February 24, 1911.

Hon. W. E. Harmon,
Supt. of Public Instruction,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 18th inst., wherein you submit for an opinion the following:

"A free county high school board of trustees has a sufficient amount of money that has accumulated to build gymnasium and domestic science building, for use of the high school. I would like to ask if such board has authority to use such accumulated fund for such purposes."

The board of trustees of a free county high school have only such power and authority as are expressly conferred upon them by statute. Their power and authority is defined in Sections 918 to 940 of the Revised Codes of 1907. Section 926 of the Revised Codes provides that such trustees shall determine upon the necessary buildings and equipment, but are limited to the amount of \$100,000 in any one county. The question arises as to whether the objects, the construction of a gymnasium and domestic science building, are objects within the province of the trustees of such county high school. Section 918 defines the purpose for which the free county high school may be established to be as follows:

"For the purpose of affording better educational facilities for pupils more advanced than those attending district schools." and Section 933 provides:

"There shall be provided such courses of study as will properly fit the student attending said high school for admission to the collegiate course of any of the state educational institutions, and such course of study shall contain the work now provided for accredited high schools by the state board of education."

If the funds available to such board of trustees are sufficient to construct an additional building, or an addition to the present building, which such board of trustees deem is necessary for the best interest of such school, and for the benefit of the pupils attending such school, and so long as they remain within the limit prescribed by Section 926, that is the \$100,000 limit in any one county, I can see no reason why such additional accommodations could not be supplied and furnished by such board of trustees. Section 925, Revised Codes, expressly states the purpose for which money raised by tax levies may be used, namely, for building purposes, and for the payment of teachers' wages and contingent expenses, and if the amount of money on hand has accumulated from the tax levy, the same could be used by such board in additional building facilities. However, I would call your attention to the opinion heretofore rendered by this office, which is reported in Vol. 3, Opinions Attorney General, page 355, wherein it is held that the trustees cannot expend a sum in excess of \$10,000 for the erection of school buildings without submitting the question to a vote of the electors. If then,

the proposed building or addition will not occasion an expenditure in excess of \$10,000, it is my opinion that such board of trustees may proceed with such building or addition, and if the amount contemplated to be expended is in excess of \$10,000, the question would necessarily have to be submitted to a vote of the electors of the county.

Yours very truly,

ALBERT J. GALEN,

Attorney General.