

**Agricultural Lands, Purchase of and Payment for. Lands for Agricultural College, How Paid for. Permanent Agricultural Fund, When May be Used for Purchase of Land.**

The legislature is authorized by Act of Congress to purchase lands for sites or experimental farms to the extent of ten per cent of the money received from the sale of lands granted by Section 16 of the Enabling Act.

Helena, Montana, September 18, 1915.

Hon. State Board of Examiners,  
Helena, Montana.

Gentlemen:

I am in receipt of your letter of the 8th instant, submitting the question:

as to whether the lands authorized to be purchased 'for the benefit and use of the agricultural college' by the provisions of Chapter 38, Session Laws of 1915, may be paid for from the moneys received from the sale of lands granted to the State by the provisions of Section 16 (Act of Congress, February 22, 1889)."

These lands were originally granted to the several states and territories by the Act of Congress of July 2nd, 1862, Chapter 130, (12 Stat., 503), which Act was amended March 3, 1883, Chapter 102, (22 Stat., 484). By the terms of this Act, 30,000 thousand acres was granted to each state for each senator and representative such state then had in the Congress of the United States. Subsequently this grant was affirmed and extended to the State of Montana by the provisions of Section 16 of the Enabling Act "for the use and support of agricultural colleges \* \* \*", as provided in the Acts of Congress making donations of lands for such purposes. It is provided in this original Act of Congress, and in the amendatory act thereof that the moneys received from the sale of such lands

"shall constitute a perpetual fund, the capital of which shall remain forever undiminished."

It is further provided in Section 5 of said Act of Congress of 1862 "That a sum not exceeding ten percentum upon the amount received by any State under the provisions of this Act, may be expended for the purchase of lands for sites or experimental farms whenever authorized by the respective legislatures of said states."

It is further provided in said Act, that:

"No portion of said funds, nor interest thereon, shall be applied directly or indirectly, under any pretense whatever to the purchase, erection, preservation or repair of any building or buildings."

Under the authority of this Act of Congress of 1862, the legislature may authorize the expenditure for "the purchase of lands for sites or experimental farms" to the extent of ten per cent of the money received from the sale of said lands, but cannot authorize the expenditure of any

part of such permanent funds for any other purpose. The provisions of said chapter 38, Session Laws of 1915, authorize the purchase of certain lands "for the benefit and use of the agricultural college," and limits the purchase price thereof to a sum not exceeding \$6,700.

From the reports made to this office, it appears that the total amount received from the sales of the land granted by the Act of Congress referred to in said Chapter 38, is the sum of \$210,759.89. Ten percent of this amount is \$21,075.98. Of this amount \$18,800 has already been expended, as authorized by the provisions of Chapter 42 of the Session Laws of 1909. It appears from these figures that there is now available for the purchase of the lands described in Chapter 38, Laws of 1915, the sum of \$2,285.89. The amount of the warrant presented, as we are informed, is \$2,927.80, hence there is not at this time sufficient money available to pay this warrant.

Yours very truly,

J. B. POINDEXTER,

Attorney General.