

Bequests—Counties—County Commissioners—Powers.

The county has the authority to accept bequests and the county commissioners have the authority to properly invest the same in interest-bearing securities for the purpose of seeing that the bequest is administered according to the terms thereof.

November 16, 1927.

H. E. Herrick, Esq.,
Deputy County Attorney,
Miles City, Montana.

My dear Mr. Herrick:

You have requested my opinion on the following question:

“Has the county, through its board of county commissioners, authority to accept bequests by estates to the county for the purpose of creating a permanent fund for the upkeep of certain

lots in the cemetery conducted by the board of county commissioners, and, if so, is the board of county commissioners vested with power to invest the same in any interest-bearing securities for the purpose of obtaining funds for the upkeep of lots in the cemetery under its control and jurisdiction?"

Under the provisions of chapter 47, laws of 1927, the county has the authority to accept bequests of this kind, and section 2 of this act provides that "the provisions of sections 5043 and 5044 R. C. M. 1921 are hereby made expressly applicable to gifts, donations, grants, devises and bequests of real or personal property to officers and boards of public corporations and institutions mentioned in the preceding section of this act."

Both sections 5043 and 5044, supra, provide that when a bequest is received it shall be administered and used for the particular purpose for which the same was given, donated, granted, bequeathed or devised.

It therefore becomes the duty of the county, upon receiving a bequest, to see that the same is properly administered in accordance with this provision.

Under the provision of paragraph 22 of section 4465 R. C. M. 1921, as amended by chapter 54, laws of 1927, it is made the duty of the county commissioners "to represent the county, and have the care of the county property and the management of the business of the county in all cases where no other provision is made by law."

It is therefore my opinion that the county has the authority to accept bequests of the nature mentioned, and that the county commissioners have the authority to properly invest the same in interest-bearing securities for the purpose of seeing that the bequest is properly administered according to the terms thereof.

Very truly yours,

L. A. FOOT,
Attorney General.