

amended, and that the fact the site and property may be desirable for school purposes for schools other than those maintained by the district will not preclude the sale by the district.

June 24, 1947

Mr. James Freebourn
County Attorney
Silver Bow County
Butte, Montana

Dear Mr. Freebourn:

You have requested my opinion concerning the procedure to be followed in the sale of the site formerly used by the high school. You advise me that there have been inquiries made by other schools for the purchase of the property for school purposes.

This office considered the sale of school sites in Opinion No. 15, Volume 21, Report and Official Opinions of the Attorney General, and held:

"Abandoned school sites may be sold by the Board of Trustees of a school district either under the provisions of subdivision 8 of Section 1015, Revised Codes of Montana, as amended, or under the provisions of Chapter 106, Laws of 1939."

While the above opinion was written, prior to the amendment of Chapter 106, Laws of 1939, by Chapter 232, Laws of 1947, yet the rule is not altered by Chapter 232 as the effect of Chapter 232 is to provide for the disposition of the funds realized from the sale.

If the Board of Trustees decides to proceed under Chapter 106, Laws of 1939, as amended, in making the sale, the detailed steps to be taken must be followed.

Opinion No. 43

**School District—School Site, Sale of
—Board of Trustees.**

Held: A school site may be sold by the Board of Trustees of a school district either under the provisions of subdivision 8 of Section 1015, Revised Codes of Montana, 1935, as amended, or under the provisions of Chapter 106, Laws of 1939, as

It is to be noted that Chapter 106, as amended, provides that "the Board shall duly pass a resolution declaring such lands, buildings, fixtures or other property to be or about to become abandoned, obsolete, undesirable or unsuitable for school purposes of said District." The fact that the site may be suitable for some school other than that maintained by the district does not preclude the district from finding

that the site and buildings are not desirable for the district's schools and therefore are abandoned. As indicated by the quoted portion of Chapter 106, it is the lack of usefulness for "school purposes of said District" which authorizes the board to initiate the procedure for the sale of the property.

It is, therefore, my opinion that a school site may be sold by the Board of Trustees of a school district either under the provisions of subdivision 8 of Section 1015, Revised Codes of Montana, 1935, as amended, or under the provisions of Chapter 106, Laws of 1939, as amended, and that the fact the site and property may be desirable for school purposes for schools other than those maintained by the district will not preclude the sale by the district.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General