

**Opinion No. 97****County Budgets in Excess of \$10,000—  
Constitutional Law—County Budgets.**

**Held:** Funds realized from the sale of bonds for the construction of a courthouse may be expended without additional authorization from the electors. An expenditure of additional funds in excess of \$10,000 to complete the courthouse must be first approved by the qualified electors of the county.

June 20th, 1952.

Mr. Seth G. Manning  
County Attorney  
Wibaux County  
Wibaux, Montana

Dear Mr. Manning:

You have requested my opinion concerning the entering into a contract by the county commissioners in the sum of \$85,100 for the construction of a courthouse without first securing the approval of the electors of the county. You advised me that bonds in the sum of \$80,000 were issued in 1946 for the erection of a courthouse but a contract for construction was never made as previous bids exceeded the amount of the bond issue. The commissioners now propose to sell the present courthouse and use the proceeds from the sale together with the balance of the bond issue in the sum of \$76,353.55 and

accept the bid in the amount of \$85,100. An outstanding architect's fee in the sum of \$4,300 is also an additional cost of construction.

Section 5 of Article XIII of the Montana Constitution has direct application to your problem as this section provides in part:

"No county shall incur any indebtedness or liability for any single purpose to an amount exceeding ten thousand dollars (\$10,000) without the approval of a majority of the electors thereof, voting at an election to be provided by law."

In applying the above quoted portion of our Constitution it is necessary to consider the two sources of the money that are to be used for the courthouse. The funds remaining from the bond issue may be used without any additional authorization from the electors as such approval was given at the time of the bond election. *State ex rel. Diedericks v. Board of Trustees*, 91 Mont. 301, 7 Pac. (2d) 543.

As there is \$76,353.55 available from the bond issue and the cost of the courthouse will be a total of \$89,400, there is a balance of \$13,046.45 which will be expended that has not received the approval of the electors. This latter amount constitutes a new debt or liability and comes within the meaning of "single purpose" as defined in *State ex rel. Turner v. Patch*, 64 Mont. 565, 210 Pac. 748, and in Section 16-2009, Revised Codes of Montana, 1947. The proposed contract of \$85,400 would constitute a liability in violation of Section 5, Article XIII of the Constitution and cannot be entered into at this time.

The procedure for the sale of the old courthouse is clearly defined in Section 16-1009, Revised Codes of Montana, 1947, and the funds realized from the sale must be included in the next budget where a building fund item will give the necessary authority for its expenditure under the budget law. Sections 16-1901 to 16-1911, Revised Codes of Montana, 1947. The inclusion of this money in the budget will not avoid the necessity of the approval of the electors for this expenditure of more than \$10,000 for a single purpose.

It is therefore my opinion that funds realized from the sale of bonds for the construction of a courthouse may be expended without additional authoriza-

tion from the electors. An expenditure of additional funds in excess of \$10,000 to complete the courthouse must be first approved by the qualified electors of the county.

Very truly yours,  
ARNOLD H. OLSEN  
Attorney General