

## Opinion No. 16-1807

May 20, 1916

**BY:** H. S. CLANCY, Assistant Attorney General

**TO:** Leo L. Heisel, Esq., Attorney at Law, Tularosa, New Mexico.

**Money derived from the sale of bonds must be expended for the purpose for which the bonds were voted.**

### OPINION

{\*370} I am in receipt of your letter of the 18th instant, enclosing a copy of the notice of an election held in school district No. 4, of Otero County, for the purpose of voting upon the question of the issuance of bonds, the proceeds from the sale of which, as stated {\*371} in the notice of election, are "to be used for the building and equipping a school house."

In a former letter you asked for the opinion of this office as to whether any of the proceeds derived from the sale of these bonds could be devoted to the purchase of land upon which a school house could be erected. This office is of opinion that the moneys derived from the sale of the bonds must be expended for the purpose for which the bonds were voted, and for no other. This view is amply supported by authorities, among others, Judge Dillon in his great work on Municipal Corporations. The same views are also expressed in *Tukey v. City of Omaha*, 74 N.W. 613, and in *Major v. Aldan Borough*, 58 Atl. 490. In the *Omaha* case, the court said that

"When the governing body of a municipality is authorized by a vote of the people, and only thereby, to incur a debt for a particular purpose, such purpose must be strictly complied with, and the terms of the authority granting be strictly and fully pursued, is so well settled that it would be idle to cite authorities on the proposition."

It is, therefore, believed by this office that the proceeds derived from the sale of the bonds authorized to be issued by school district No. 4, of Otero County, cannot be expended for the purchase of a site for a school house, but must be, in the language of the notice, "used for the building and equipping a school house."