

Opinion No. 37-1795

October 22, 1937

BY: FRANK H. PATTON, Attorney General

TO: Mr. C. R. Sebastian Assistant State Comptroller Office of State Comptroller Santa Fe, New Mexico

{*173} Your letter of October 21st refers to "collections from estates", which appear to be escheats to the State.

Section 4, Article XII of the State Constitution provides that the net proceeds of property that may come to the State by escheat shall go into the current school fund of the State.

Section 38-112 of the 1929 Compilation provides if there be property remaining uninherited it shall escheat to the state. Chapter 44 of the 1929 Compilation sets up the procedure in connection with property which is to escheat to the State and by 44-104 we find that after certain steps have been taken in the probate court the proceeds shall be paid to the county treasurer who is to be held responsible for such sums received by him on his official bond.

By Section 44-106 apparently a year's time is given to permit claimants to file claims or for applications for administration of the estate.

It is my belief that after the expiration of this period of one year there is no longer any further necessity for the county treasurer retaining such funds in his possession and at that time therefore he should remit the same to the State Treasurer to be by that official covered into the current school fund.