

**Opinion No. 13-1047**

May 16, 1913

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. W. E. Lindsey, Portales, N. M.

**SCHOOLS.**

As to land sold by Commissioner of Public Lands to town of Portales for school purposes.

**OPINION**

{\*216} I have just received your letter of the 14th inst. and take pleasure in answering, as I always will, any question that you may desire to ask.

You inquire whether the property mentioned in Sections 8 and 9 {\*217} of Chapter 106 of the Laws of 1909, is to be conveyed to the Board of Education of the Town of Portales under the provisions of Section 1565 of the Compiled Laws of 1897. That section of the Compiled Laws was a part of an act of 1891 and seems to refer only to property within the limits of a city or town theretofore purchased for school purposes, the title to which was then vested in the city or town. It does not seem to have any prospective effect, but even if it did, I believe that the specific provisions of Sections 8 and 9 of the Act of 1909 would make it inapplicable. Those sections distinctly provide that the Commissioner of Public Lands shall sell and convey to the Town of Portales the school section mentioned therein and that the school section shall be taken and handled by the town as trustee for the benefit of the common schools of the town. I do not see any authority for transferring the title to the land from the town to the Board of Education, but it might well be held that the money received from the lease or sale of the school section, or any part thereof, which must be applied for the benefit of the schools, is to be expended under the direction of the Board of Education like any other school money.