

Highway Construction—Bond Issue—Use of Money for Outstanding Road Warrants.

Proceeds of bonds issued for the construction of highways may not be applied in taking up road warrants outstanding at the time that the election was held.

J. D. Taylor, Esq.,
County Attorney,
Hamilton, Montana.

My dear Mr. Taylor:

You have inquired whether the proceeds of a bond issue for the construction of necessary public highways, which has been submitted to a vote and approved, may be used in payment of outstanding road warrants of the county. From your inquiry I understand that the warrants in question are warrants that were already outstanding at the time that the election was had for the issuance of the bonds.

Without going into the question of whether or not bonds may be issued for the purpose of funding such warrants, it would seem that the principles governing the application of funds raised as the result of an election to the purpose for which such funds were dedicated by the election will control the matter. When the citizens voted for the issuance of bonds for the construction of necessary public highways, undoubtedly they did so in contemplation of future construction and the addition of roads within the county to those already constructed. To apply the proceeds of the sale of the bonds so authorized in taking up warrants issued in payment for the construction of roads already built at the time of the election in question, would be to apply such proceeds to a purpose never contemplated or authorized by the voters. No doubt, in order to obtain support for the bond issue, the construction of certain roads was laid before the voters as an inducement. They were not voting upon the question of whether warrants then outstanding should be funded by a bond issue, but upon the question of whether money should be spent in the construction of roads. Taking up the existing warrants by means of the bond issue would be virtually funding such warrants, a question, as stated, not contemplated in the voting.

It is my opinion that the proceeds of the bonds in question may not be applied in taking up road warrants outstanding at the time that the election was held, or any warrants except such as may have been issued in road construction in pursuance of the expenditure authorized at the election.

Very truly yours,
WELLINGTON D. RANKIN,
Attorney General.