

**Trustees of School District—Authority to Draw Warrants Allowing Additional Interest.**

The Board of Trustees of a school district is without authority to pay an additional 4 per cent interest over and above the 6 per cent payable upon school district warrants for the purpose of raising the interest rate to 10 per cent.

G. W. Magee, Esq.,  
County Attorney,  
Choteau, Montana.

My dear Mr. Magee:

Your inquiry, whether it is legal for the Trustees of a School District to issue a warrant in payment of an additional 4 per cent over and above the 6 per cent interest payable upon warrants of the school district for the purpose of raising the interest rate on said warrants to 10 per cent, has been received.

It is my understanding that the warrants in question have been funded by a bond issue under the provisions of Chapter 97 of the Laws of 1921, and that it is proposed to pay the additional 4 per cent because of the difficulties encountered in having the warrants in question cashed prior to the bond issue.

Section 1 of the Act in question provides for the funding of floating indebtedness incurred on or before July 1, 1921, which is represented by warrants.

Section 5 of the Act reads in part as follows:

"Upon execution, the bonds shall be deposited with the County Treasurer, \* \* \* and the County Treasurer shall deliver the same to the person, or persons, to whom sold, upon their making payment for the same, or, if so directed by the Board of Trustees, to such person, or persons, as shall surrender an amount of warrants which, with accrued interest, shall equal the par value of such bonds, and said warrants so received by the Treasurer shall be duly cancelled."

From the foregoing language it is apparent that it was the intention of the Legislature that the bonds or the funds from the same should be used in taking up the warrants dollar for dollar, and that from any funds provided by the sale of the bonds no interest upon the warrants additional to that carried by such warrants could be paid. This rule is also supported by other sections of the School Law to the effect that the proceeds of sales of bonds must be applied only to the purpose for which they are issued.

I find no authority in the law for the payment of interest by School Boards except that which the warrants or bonds may bear, and which was included in the warrants issued by the district.

Section 2004, as amended by Chapter 196 of the Laws of 1919, reads as follows:

"County School moneys may be used by the County Superintendent and trustees for the various purposes, as authorized and provided in this Act, and for no other purpose, except that in any district, any surplus in the general school fund to the credit of said district, after providing for the expenses of not less than nine months' school, on a vote of the qualified electors of said district, may be used for the purpose of retiring bonds and improving buildings and grounds, or erecting school buildings, a teacherage or barn. If any school money shall be paid by authority of the Board of Trustees for any purpose not authorized by this Chapter, the trustees consenting to such payment shall be liable to the district for the repayment of such sum, and a suit to recover the same may be brought by the County Attorney, or if he shall refuse to bring the same, a suit may be brought by any taxpaying elector in the district."

There being no authority in the law for the payment of additional interest over and above that provided for the warrants, and the interest being limited to a given rate, the Board is without authority to pay the additional 4 per cent interest, and the payment of the same would be contrary to the above provisions.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.