

No. 303

**BONDS, partial payment of principal and interest on—
SCHOOLS AND SCHOOL DISTRICTS, bonds of—CITIES
AND TOWNS, bonds of—COUNTIES, bonds of**

Held: Since there is no statutory authority for partial payment of bonds or bond coupons by school districts, cities and towns or counties, the same may be paid only when sufficient money is on hand to pay a bond or coupon in full and the bond and coupon are surrendered cancelled or for cancellation.

December 1, 1941.

Honorable W. A. Brown
State Examiner
State Capitol
Helena, Montana

My dear Mr. Brown:

You have inquired whether partial payment of principal and interest may be made on Montana municipal bonds when sufficient money is not on hand to pay a coupon or bond in full.

With respect to school district bonds Section 1224.29 of the Revised Codes of Montana, 1935, provides the "treasurer shall remit the amounts due for interest or principal . . . for payment against the surrender of the cancelled coupons or bonds." Section 1224.31 also indicates payment shall be made when coupons or bonds may be surrendered or cancelled.

Section 5278.25 of the Revised Codes of Montana, 1935, provides that—on city or town bonds—interest and principal shall be paid "upon the presentation and surrender of the coupon or coupons, bond or bonds to be paid."

The provisions with respect to payment of county bonds or coupons thereon is Section 4630.28 of the Revised Codes of Montana, 1935, and is identical with the provision of Section 5278.25, quoted above.

All of these provisions indicate quite clearly it was the intention of the legislature payment of bonds or interest would be made only when the bonds are surrendered or coupons presented which represent the principal or interest payments due or payable. Holders of these securities would not surrender the same without payment in full or some additional evidence of the indebtedness remaining unpaid which evidence the agency paying the bonds is not authorized to give. As the school districts, cities and towns and counties have only such authority as is given them by statute or as is necessarily implied from such as is granted, we cannot see how authority to make partial payments can be read into the law.

In an opinion of this office reported in Volume 11 of the Official Opinions of the Attorney General at page 214, the question was whether or not part of a city or county warrant could be paid and a new warrant issued for the unpaid amount. Then the Attorney General held a partial payment of a warrant was not authorized. By the same logic, partial payment of a bond or coupon is not authorized.

It is my opinion, since there is no statutory authority for partial payment of bonds or bond coupons by school districts, cities and towns or counties, the same may be paid only when sufficient money is on hand to pay a bond or coupon in full and the bond or coupon is surrendered cancelled or for cancellation.

Sincerely yours,

JOHN W. BONNER
Attorney General