

### State Board Action, Signatures to Bond Issue.

In the absence of the governor from the state it is not necessary that his signature be affixed to bonds authorized to be issued by the board of land commissioners. As the board acts by majority and the mere signing of the bonds being only a ministerial act, signatures to the bonds of a majority of the board is sufficient to insure the legality of the bond issue.

April 25, 1905.

Hon. James H. Rice, State Treasurer, Helena, Montana.

Dear Sir:—You make request upon this office for an opinion upon the following question, viz: The governor being absent from the state, can the State Board of Land Commissioners legally issue State University Bonds No. 2, without his signature thereto?

In my opinion they can legally make such issue of bonds by a majority of the members attaching their signatures to the bond issue, as the board is controlled by majority action.

Section 14, of the Political Code, provides as follows:

“Words giving a joint authority to three or more public officers, or other persons, are construed as giving such authority to a majority of them unless it is otherwise expressed in the act giving the authority.” (See also Secs. 572-574, Mechem on Public Officers.)

The law authorizing the issuance of the particular bonds in question directs that the bonds issued shall be signed by the board of land commissioners, (Laws 1901, p. 40), and countersigned by the secretary of state. The action of signing the bonds is merely a ministerial act, while the action authorizing and directing the bond issue involves judgment and discretion.

Reference to the records of proceedings had by the board of land commissioners respecting such proposed bond issue will show that the governor was present and acted at said meeting favorably upon the question of the issuance of such bonds.

I would therefore advise you that the governor's signature is not necessary to be affixed to said bonds to insure their legality, he being

absent from the State and the bonds being signed by a majority of the members of the board of land commissioners. However, should the bond purchasers insist upon having his signature subscribed to said bond, this can be attended to by him at any time.

Respectfully yours,

ALBERT J. GALEN,

Attorney General.