

**Bonds, Educational Institutions. Educational Institutions,
Void Bonds of.**

The owners of bonds of the various educational institutions which were called for payment on January 8th, 1909, are not entitled to interest from that date. All such bonds were absolutely void and the payment of the same was in the discretion of the State.

Helena, Mont., July 14, 1909.

Hon. E. E. Esselstyne,
State Treasurer,
Helena, Montana.

Dear Sir:

I am in receipt of your communication, enclosing copy of a letter written by a bondholder of Montana Agricultural bonds to Trowbridge & Niver Company, First National Bank Building, Chicago, Ills., in which he makes enquiry as to the right of the State of Montana to call for payment on January 8th, 1909, certain bonds on the Montana Agricultural College which stated on their face that they were due July 1st, 1920, with the option of paying them after July 1st, 1905.

The above issue of bonds, together with an issue of State Normal School Bonds, an issue of State University Bonds, an issue of Deaf and Dumb Asylum Bonds, were all made pursuant to acts of the legislature pledging certain grants of land made by the United States Government to the State of Montana for the payment thereof. The various acts of the legislature authorizing the above issues of bonds were substantially the same, and all pledged these land grants and the money received therefrom for the payment of those bonds. An action was brought to test the validity of the State Normal School Bonds and the same were held to be void by the Supreme Court of Montana in the case of *Haire v. Rice*, as state treasurer (33 Mont., 365-83 Pac. 874.) This case was appealed to the Supreme Court of the United States, where the judgment of the Supreme Court of Montana was affirmed and the bonds held void (See *Haire v. Rice*, 204 U. S. 291). The effect of this decision was to render all of these bonds void; therefore the state was under no legal obligation to pay any of them.

However, the state was not disposed to repudiate any of its obligations and therefore, the legislature, by chapter 58, laws of 1907, submitted to the voters of the State of Montana the question of issuing state bonds for the purpose of raising money to pay the holders of these void bonds. This question was submitted at the general election in 1908 and the state board of examiners was authorized to issue bonds in accordance with the provisions of said chapter 58. This law authorized the board of examiners to require the surrender of all such void bonds at their face cash value, and it further provided that the board of examiners could either exchange the state bonds issued to take up these void bonds, or that the state board of land commissioners could purchase the state bonds and pay the bond holders the face value of their bonds, together with interest

to the date of payment. The state board of land commissioners elected to purchase all these bonds with the permanent school funds of the state, and, therefore, the board of examiners made the call for the surrender of all these void bonds on January 8th, 1909, and provided, pursuant to said law, that the interest on all such bonds should cease from and after that date. This call was published in the "American Banker Daily Bond News of New York," and also in the "Montana Daily Record," published at Helena, Montana, on December 9, 16, 24 and 31, of 1908.

You are therefore advised that the holders of these void bonds have no claim whatsoever for any interest after January 8th, 1908, for, as stated above, their bonds are bsolutely void and the state could have repudiated them in toto, but, instead of that, it agreed to make call of such bonds and to pay the face thereof and the interest thereon up to the time that said call stated the interest would cease.

Yours very truly,

ALBERT J. GALEN,

Attorney General.