

County Bonds, Redeemable Period in. Bonds, When Redeemable and Payable. Refunding Bonds, How Drawn.

A county refunding bond must name a redeemable period which must be substantially different from the period when the bond becomes due.

February 13th, 1913.

State Board Land Commissioners,
Helena, Montana.

Gentlemen:

I return herewith in re proposed refunding bond issue of Park County, Montana, for \$65,000, redeemable and payable twenty years after date, with interest at 4 per cent, payable semi-annually. The transcript of proceedings relative to the issue of these bonds appears to be regular in form, except that there is no redeemable period fixed separate from the time when the bonds become finally due. The provision of Sec. 2905, R. C., which gives authority for the issuance of these bonds, relating to the redeemable and payable period of the bonds, is not substantially different from the provisions of Sec. 3460, R. C., relating to the redeemable and payable periods of bonds issued by the city. In construing the provisions of this latter section, the supreme court has held that it is mandatory upon the city council to fix both a redeemable period and a period of maturity and that a failure to do this is fatal to the bonds.

Carlson v. City of Helena, 39 Mont. 82. 102 Pac. 39.

The provisions of Sec. 1003, R. C., relating to the issuance of bonds by school districts in so far as they apply to the payable and redeemable periods, are also very similar to the like provisions in Sec. 2905. Under this latter section this office has heretofore held that the school district must fix both a redeemable and payable time which must be substantially different.

Opinions of Attorney General, 1908-10, pp. 390-391.

The terms "payable" and "redeemable" are certainly not synonymous in meaning and where both terms are used relative to a bond issue, it would seem to indicate that different periods must be fixed.

This error, however, may be remedied by the board of county

commissioners, either amending the former order or rescinding it and making a new order, fixing a "redeemable" as well as a "payable" period for these bonds, and re-advertising for the sale of the same.

Very truly yours,

D. M. KELLY,
Attorney General.