

School District Warrants, Registration of When. Warrants, Registration of When. County Treasurer, Duty to Register Certain School Warrants.

The law relating to registration of school district warrants, examined and construed.

July 3, 1916.

Hon. Jesse G. Henderson,
County Attorney,
Shelby, Montana.

Dear Sir:

I am in receipt of your letter submitting the question as to whether certain school warrants issued by School District No. 39, Toole County, Montana, should be registered by the County Treasurer?

It appears from the statement that these warrants are issued mostly for teacher's salary, and for transportation of pupils, a few of them being for supplies. The provisions of Subdivision 8, Section 2986 make it the duty of the county treasurer to pay warrants drawn in accordance with the provisions of law whenever such warrants are countersigned by the district clerk and properly endorsed by the holders. Of course, there is not any duty resting upon the county treasurer to record a warrant which he is prohibited from paying. This law above referred to relates to the payment of warrants, rather than to their registration, but if the warrants are "drawn in accordance with the provisions of law", they should be registered under authority of Section 2989. The provisions, however, of Subdivision 8 of Section 2986 have been to some extent modified by the provisions of Subdivision 4, Section 2010, Chapter 76, Laws of 1913, wherein it is provided that the treasurer shall pay warrants countersigned by the district clerk, and then follows the statement "and also countersigned by the county superintendent, provided in Section 513 of this Act." Section 513 of that Act prohibits the school trustees from issuing any warrants for maps, charts or other apparatus, unless the same is authorized by the county superintendent; and Section 2204 of said Chapter 76, prohibits the payment of any warrant issued for charts, maps or apparatus until the same has been countersigned by the county superintendent. From these provisions of law, more or less indefinite, it appears that the only warrants which it is the duty of the county superintendent to countersign, are warrants issued for the payment of "maps, charts and other apparatus." The treasurer is, therefore, not justified in refusing to register a warrant drawn for other purposes for the single reason that they are not countersigned by the county superintendent. However, the provision of Subdivision 9 of Section 302 of said Chapter 76, contains the provision "no such warrant shall be drawn unless there is money in the treasury to the credit of such school district", adding the proviso that where taxes have been levied, the board may anticipate their collection and issue warrants, but the school board has no authority to issue any warrant unless there is money in the treasury, or unless a tax has been levied from which the money may be raised, and warrants so drawn, not being authorized by law, are not as such entitled to recognition by the county treasurer. If, however, the county treasurer refuses to register the warrants, and a mandamus action is brought against him, the burden of proof, of course, will be on him to show that the warrants were illegally drawn, or drawn in violation of this mandate of the law. The purpose of the law, of course, is to prevent a school board from incurring an indebted-

ness against the district, and while the members of the board may possibly render themselves personally liable, they cannot be permitted indiscriminately to issue warrants against their districts unless the means has first been provided for their payment.

I return herewith the correspondence submitted by you.

Yours very truly,

J. B. POINDEXTER,
Attorney General.