

Conveyance, School District to County. Taxes, Lien of on School Property. Bonds, Property Subject to Payment of. High School, Conveyance of Property by.

Where a county purchases property from a school district, such property is not liable for bonds then outstanding against the district, but property within the district subject to taxation at the time bonds were issued is liable.

August 17th, 1916.

Hon. L. V. Beaulieu, County Attorney,
Havre, Montana.

Dear Sir:—

I am in receipt of your letter of the 11th instant, submitting the question:

“If the County accepts a Warranty Deed from the School District for the present High School property

against which property there is at this time a bonded indebtedness in the sum of \$16,000, does the County by taking the property, become liable as a County for the payment of the bonded indebtedness against the School District for that particular property?"

I am not advised from the terms of your letter whether the High School to which you refer is a County High School of a City or District High School. If it is a County High School, the bonded indebtedness is already a charge against the County. If it is a City or District High School, the bonded indebtedness is a charge against the property taxable within the District at the time of the issuance of the bonds and such property is not relieved from such lien except by the payment of the bonds. The property, however, owned by the District, that is the school lot and school building is not a subject of taxation, except special improvement taxes, hence, no tax lien can exist thereon, and if the district has the authority to sell the same to the County and does make the sale, the property so transferred is not subject to any tax lien by reason of the existence of the bonds, but the rest of the property situate within the district and which composed the district at the time of the issuance of the bonds, is still liable. This question was discussed by this Department in an opinion to Honorable H. A. Davee, on March 10th, 1914, Opinions of Attorney General, 1912-1914, page 485. The statement contained in opinion of Attorney General referred to by you, Volume 4, page 515, has reference to private property situate within the district and does not refer to the school property, the title to which is vested in the school district.

It would seem to me that if this school district sells this property to the County or to anyone, if it has such authority, that the money received therefor should be placed in the sinking fund for the redemption of the bonds, for it was undoubtedly the purchase of this property and the erection of this building for which the bonds were issued. The County, by accepting a Warranty Deed to the property would not thereby, as a matter of law, assume the bonded indebtedness outstanding against the District.

Yours very truly,

J. B. POINDEXTER,

Attorney General.