

**School Bonds — Interest — School District — Apportionment.**

The 2½% interest on school bonds goes to the county and not to the particular fund.

A school district may be declared abandoned when no school is held for two years but the pupils attend school outside of the district.

The apportionment should be collected by a suit when not voluntarily paid.

Miss May Trumper,  
Superintendent of Public Instruction,  
Helena, Montana.

My dear Miss Trumper:

You have requested my opinion on the following matters:

"1. The Malta School District No. 14 has a sinking fund that it is unable to use before 1926, of something over \$12,000. In its general fund is about the same amount. Ever since this county was established the interest of 2½% on the sinking and general funds of the several districts has been placed in the general funds of the county. This money is thus lost to the schools. Should this interest be placed to the credit of the several districts whose money is earning it instead of going into the general fund of the county?"

Section 4767, Revised Codes, 1921, requires the County Treasurer to deposit **all public moneys in his possession and under his control**, in banks designated by the Board of County Commissioners, which moneys shall bear interest at the rate of 2½% per annum, payable quarterly. Such section then expressly provides: "And all interest paid and collected on said deposits shall be credited to the general fund of the county." Under these statutory provisions the interest on the moneys in the school district sinking funds and general funds is properly placed in the general fund of the county.

In this connection your attention is called to the provisions of Section 1229, Revised Codes, 1921, which expressly authorizes the investment of moneys in school district interest and sinking funds, as follows: By the purchase of the bonds issued by the school district, if they can be purchased at par or less, but at not more than par value. Or by investment in either State of Montana or United States bonds, such bonds being purchased by the County Treasurer under direction of the Board of School Trustees. It is doubtful whether any bonds of this state can be purchased without paying something more than par for the same, but there are certain issues of Liberty bonds which can be purchased at par, or slightly under, and there is no reason why the Board of Trustees of this district may not direct the County Treasurer to invest the money in its sinking fund in such bonds so that the district will receive the benefit of the interest received instead of the same going to the general fund of the county. There is, however, no authority for the investment of the money of the general fund in any manner whatever.

"2. School District No. 24 of that county, containing only twelve sections, was some few years ago separated from the Dodson district. The last two years it has not had a school owing to the fact that the children all attended the Dodson schools. It has four miles of railroad in the district, and hence is accumulating a large balance which it is not using. Because of people moving out of the district, it does not have pupils enough to maintain a school. The Dodson district wants to consolidate the two districts, claiming that it has had to provide school for the children. The people of District No. 24 do not

want to consolidate for the reason that it would raise their taxes. What can be done about it? It is really to the best interests of the children to have the districts consolidated, but if a majority of the people in District No. 24 are against it, can it be done?"

Your attention is directed to Section 970, Revised Codes of 1921, which gives to the County Superintendent of Schools the power to declare a school district abandoned when no school has been held in such district for two consecutive years, if in his judgment there is no immediate prospect of the need of a school, and which provides that when a district is so declared abandoned the territory shall be by the County Superintendent attached to contiguous districts, and all funds of the abandoned district, after all its debts have been paid, shall be placed to the credit of the general school fund of the county upon order of the County Superintendent.

Under the power granted by this section, there is no reason why the County Superintendent may not make an order, reciting that no school has been held in the district for two consecutive years immediately preceding the 1st day of July, 1923, and that, in his judgment, there is no immediate prospect of the need of a school in the district, and declaring such district abandoned and attaching the territory embraced in such district to the Dodson district, and, after all debts of the district are paid, the County Superintendent can make another order directing that the money then remaining in the funds of such district shall be placed in the general school fund of the county. A copy of the first order should be delivered to the clerks of the district ordered abandoned and the Dodson district, as should also copies of the order with reference to the funds and a copy of this last order should also go to the County Treasurer. In this connection your attention is also called to Section 1023, Revised Codes, 1921, as amended by Chapter 18, Session Laws 1923. As so amended, such section prohibits the creation of a school district, or the changing of its boundaries between March 1st and July 1st of any calendar year, and as the abandonment of a district and the attaching of the territory therein to another district change the boundaries of the districts, you cannot make such an order between the above mentioned dates.

"3. The school law states that when the children of one district are attending the schools in another district, the first district must pay to the school district all the moneys received by the apportionments. How may this money be collected if the Trustees refuse to pay it? Can this money be collected for the past school year?"

Section 1013, Revised Codes, 1921, provides that a Board of Trustees must, when pupils belonging to their district are attending school in another district, transfer school moneys due by apportionment to such pupils to the district in which they are attending school, if, in the judgment of the County Superintendent of Schools, said children are attending school in another district for a good and sufficient reason.

If District No. 24 maintained no school during the last year the County Superintendent should ascertain in what districts the children of District No. 24 attended school and the total number attending in each district, and then notify the Board of Trustees of District No. 24 to pay over to the districts in which the children attended school the moneys apportioned to District No. 24 during the school year which will end June 30, 1923. If all of the children attended school in the Dodson district, then the amount to be paid over to that district will be the entire amount apportioned to District No. 24 during the school year ending June 30, 1923, but if some of the children of District No. 24 attended school in districts other than the Dodson district, then the amount apportioned to District No. 24 during such year should be apportioned between all of the districts in which the children of District No. 24 attended school, in proportion to the number of such children attending school in each such district. If, after the County Superintendent has so notified the Trustees of District No. 24, such Trustees refuse to pay the money over to the other district or districts, such district or districts may collect the same by suit against District No. 24.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.

### Aliens—Citizenship—Women—Marriage.

Whether an American woman who marries a foreigner is still an American citizen and entitled to carry firearms depends upon the date of marriage whether restored to citizenship and whether married to an alien ineligible to citizenship in view of the Act of Congress passed on September 22, 1922.

C. A. Jakways, Esq.,  
State Fish and Game Warden,  
Helena, Montana.

My dear Mr. Jakways:

You have inquired whether an American woman, who marries a foreigner, is still an American citizen and entitled to carry firearms under the Alien Firearms Act.

Formerly an American woman who married an alien took the citizenship of her husband. On September 22, 1922, Congress passed a law authorizing women, who had lost their citizenship in this manner and who were married to aliens eligible to citizenship, to be restored to citizenship upon proper application. This Act also provides that women who marry aliens eligible to citizenship, after the passage of the Act, retain their citizenship unless they renounce the same or remove from the country and live outside of the United States for a