

**Bonds—Indebtedness—School Districts.**

Where after incurring a bonded indebtedness to the sum of \$3,000 and building a schoolhouse therewith the district was divided into two districts, as between the districts the old district is responsible for the bonded debt, but as between the bondholders and the territory included in the original district each new district is liable in proportion to the assessed valuation of the property therein.

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

My dear Miss Trumper:

You have submitted to me a letter from R. E. Covert, County Superintendent of Schools of Dawson county, in which he states that School District No. 2 of that county issued bonds in the sum of \$3,000.00 to build a schoolhouse, after which School District No. 61 was created out of the territory of School District No. 2.

The percentage valuation for the different districts for 1922 is given as follows, to-wit:

District No. 2.....	\$21,909.00
District No. 61.....	48,200.00

The limit of indebtedness is estimated on the assessed value and not on the percentage of the assessed value, and, as this will average about one-third of the assessed value (depending on the character of the property), the assessed value in the case of District No. 2, which incurred the original obligation, would be \$65,727.00. While this is

considerably under the valuation it should have (\$100,000.00) in order to incur an indebtedness of \$3,000.00, yet it would seem that it would not be impossible for the district to pay the debt on the amortization plan during a period of say fifteen years.

As against the bondholders, the original territory would remain liable for its proportionate share of its indebtedness incurred before division of the district.

Partridge v. Dennie, 105 Minn. 66, 117 N. W. 234;  
Higginbotham v. Comm., 25 Gratt. 627;  
Plunkett Creek Township v. Crawford, 27 Pa. 107;  
Gilman County v. Wasco County, 13 Pac. 324;  
Bevans v. Duluth, 3 McCrary 219, 9 Fed. 747.

Although as between the subdivided portions, in the absence of statutory adjustment of indebtedness, the old corporation owns the property within its limits and is responsible for all debts.

Union Township v. Oakdale Twp., 120 Pac. 968;  
Laramie County v. Albany County, 92 U. S. 307, 23 L.  
ed. 552.

It is, therefore, my opinion that as between District No. 2 and District No. 61, District No. 2 is responsible for the bonded debt, but, as between the bondholders and the territory included in District No. 2 before division, each is liable in proportion to the assessed valuation of the property therein.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.