

Interest — Mortgages — State Lands — State Board of Land Commissioners.

The State Board of Land Commissioners may accept part of the principal of any mortgage prior to the interest paying date, and stop interest upon that part so paid.

H. V. Bailey, Esq.,
Register of State Lands,
Helena, Montana.

My dear Mr. Bailey:

You have requested my opinion as to whether payments may be made by the mortgagor of lands mortgaged to the State of Montana at any time.

Under the terms of the mortgages the mortgagor is permitted to pay \$100.00 or more at any interest-paying date, and your inquiry is whether you may accept part of the principal before the interest-paying date and stop interest on the part paid.

After a mortgagor has made three annual payments of interest, he has the privilege and option of paying at any interest-paying date, in addition to the interest, ten per centum, or any multiple thereof, of the principal secured by the mortgage. This is a right which was granted to the mortgagor by the terms of the mortgage. The privilege which the mortgagor now desires, that is, to pay a part of the principal before the interest-paying date, is not granted to the mort-

gagor by the mortgage, so that he could not compel the mortgagee to accept the payment on the principal before the time stated in the mortgage as the interest-paying date.

However, in my opinion, there is nothing in the mortgage or law that would prohibit the State Board of Land Commissioners from accepting a payment on the principal prior to an interest-paying date, and, of course, in that event interest would stop upon the amount so paid from the date of its payment.

The provisions of the mortgage giving the mortgagor the right to make payments on the principal at the interest-paying date are for the benefit of the mortgagor, and were not intended to bind the mortgagee to receive it on that date and then only, and that the mortgagee may lawfully consent to receive said payment prior to the interest-paying date.

It is, therefore, my opinion that the State Board of Land Commissioners may accept part of the principal of any mortgage prior to the interest-paying date, and stop interest upon that part so paid.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.