

**Irrigation Districts—Loans—State Mortgages.**

The state, upon foreclosure of its mortgages on lands within an irrigation district, acquires title thereto, subject to the lien of the bonds of the irrigation district, and subject to assessments in the same manner as all of the other lands in private ownership in the district.

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

My dear Mr. Bailey:

You have requested my opinion with reference to loans on land situated within irrigation districts, some of which loans have already matured and some of which are about to mature, and say:

“However, because of the fact that irrigation bonds become a first lien, we have been unable to renew these loans. This situation will cause a great deal of hardship to the people who have given the mortgage and are on the land. In the event that we are compelled to foreclose the state must then withdraw the lands from the irrigation district so far as assessments are concerned thereby throwing the burden upon the other people in the district and the state obtaining whatever advantage may be had from the fact that the lands are irrigated, provided the district is completed.”

Your idea, that if the state is compelled to foreclose any of its mortgages on lands situated in an irrigation district it can withdraw the lands from the district, thus relieving them from all liability for any assessments for the purpose of raising funds for maintenance purposes or for the payment of interest and principal of bonds issued by the irrigation district, is erroneous. If the state is compelled to foreclose its mortgage on any such lands and acquires title thereto through a sheriff's deed it will acquire the land subject to the lien of the bonds, and the land will be subject to assessment in exactly the same manner as all the other lands in private ownership in the district.

After property has been included within an irrigation district and has become liable to assessment its liability is not affected in any manner by any change in the title, but it remains liable to the same extent as though the title was the same as at the time it was included in the district. Liability to assessment attaches at the time the district is created and is not affected by any subsequent change in title. It is, therefore, my opinion that if the state acquires title to any such lands by foreclosure proceedings the state must pay any and all assessments levied against the land by the irrigation district.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.