

Opinion No. 62.

Counties—Bonds—Optional Payment.

Unless a bond provides for optional payment other than maturity date, it is not redeemable at any other date. An option to redeem at a certain date does not give the county the right to redeem at a later date.

March 18, 1937.

Mr. Ward Goble
County Attorney
Baker, Montana

Dear Mr. Goble:

You have submitted the following question, "are county funding bonds which state that they are optional on a certain date only, optional on any later interest payment date," upon the following statement of facts:

"The county issued certain funding bonds dated January 1, 1921 and due January 1, 1941, optional January 1, 1936. Nothing was stated in the bonds as to whether or not they were optional at any later interest paying date. The county attempted to call and redeem these bonds on July 1, 1936. Some of the holders of the bonds have refused to surrender the bonds for payment claiming that the bonds were optional on January 1, 1936 and not on the next interest payment date."

The bond is a contract for the payment of money on a certain date. The holder of a bond need not accept payment before maturity unless he chooses to do so, or unless the contract so provides. Since the county did not exercise its option to pay the bonds on January 1, 1936, unless the bond so declares, it has no right to exercise an option at a later date, for to do so would be granting an option in violation of the terms of the contract. In other words, if the bonds are redeemable on a certain date, they are not redeemable at a later date, and hence Section 4630.29 R. C. M. 1935, has no application.