

ment of Section 1029.1 (1933) the indebtedness apportioned to each district is determined by deducting the amount of money in the sinking fund and dividing the remainder between the districts in proportion to the value of the school property in the new district.

October 6, 1939.

State Board of Land Commissioners
Mrs. Nanita B. Sherlock, Commissioner
State Capitol Building
Helena, Montana

Gentlemen:

You have submitted the following facts for my opinion:

School District No. 2 of Dawson County on the first day of September 1919 floated a bond issue of \$3,000 to construct a school building. On May 22, 1930 School District No. 6 was organized out of a portion of District No. 2. District No. 2, as comprised after division, retained the building constructed from the proceeds of the bond issue. The question involved is, upon which district rests the obligation to pay the balance of the bonded indebtedness?

Section 1028 provides that "in case of division each district shall own and hold all permanent property, such as sites, schoolhouses, and furniture situated within its boundaries."

The bonded indebtedness against District No. 2, as it existed on May 22, 1930, should have been apportioned by the county superintendent "by first deducting from said indebtedness the amount of all moneys in the treasury belonging to the sinking fund of said old district, and then apportioning the remainder of the indebtedness between the respective districts in proportion to the value of the school property in the new district." If there were no sites, buildings, furniture or other school property located in District No. 6 at the time of the division, then the obligation to pay the bonded indebtedness rested entirely on District No. 2 as constituted immediately after division. No doubt the legislature assumed that inasmuch as one district retained the property which occasioned the in-

Opinion No. 148.

Schools and School Districts—Division—Bonded Indebtedness.

HELD: Where a school district has been divided prior to the enact-

debtedness that such district should pay the same. If there were property other than the new building in District No. 6, then District No. 6 must assume its share of the bonded indebtedness in proportion to the value of said property. Adjustment is to be made based upon the conditions existing as of the date of division.

Section 1029.1, enacted as Section 1, Chapter 163, L. 1933, provides that upon the division of a school district the bonded indebtedness "shall remain the indebtedness against the original territory against which such bonds were issued and shall be paid for out of levies made against said original territory." This section if it had been in force and effect on May 22, 1930, would have imposed an obligation on both districts to share in the payment of the bonded indebtedness.

We do not contend or determine that the bondholders could not enforce and impress their lien against the original territory in both districts. As between Districts No. 2 and No. 6 it becomes the duty of the trustees of District No. 2 and the board of budget supervisors to budget, levy, and pay the remainder of said bonded indebtedness, (assuming no school property was situated in District No. 6 on May 22, 1930.)