

No. 77

COUNTY WARRANTS, Definition of—WARRANTS, Rate of Interest on—COUNTY HIGH SCHOOLS, Warrants of

Held: Rate of interest on county high school warrants is not affected by Chapter 15 of the Laws of 1941, reducing interest on county warrants.

April 9, 1941.

Mr. Bert I. Packer
County Attorney
Teton County
Choteau, Montana

Dear Mr. Packer:

Your inquiry of April 5, 1941, presents the following question: Are county high school warrants within the term "county warrants" as used in Chapter 15, Laws of 1941?

Chapter 15 of the Laws of 1941 amends Sections 4625 and 4753 of the Revised Codes of Montana, 1935, by reducing the rate of interest on "county warrants" from six per cent to four per cent. In Volume 19, Opinions of the Attorney General, No. 46, this office held that Chapter 15 of the Laws of 1941 does not affect school district and irrigation district warrants.

In construing a statute, its words and phrases must be given their plain and ordinary meaning. This rule of statutory construction is well recognized in Montana.

State v. Bowker, 63 Mont. 1, 205 Pac. 961;

Lewis v. Petroleum County, 92 Mont. 563, 17 Pac. (2nd) 60.

State ex rel. Durland v. Board of Commissioners, 104 Mont. 21, 64 Pac. (2nd) 1060.

It is important to determine the ordinary meaning of the words "county warrants."

In *Savage v. Matthews*, 98 Ala. 535, 13 So. 328, the Court defined a county warrant as:

"A warrant is the command of one duly authorized officer to another, whose duty it is to obey, to pay from the county funds a specified sum to a designated person, whose claim therefor has been allowed by the court of county commissioners."

The following definition was given in the case of *Littlejohn v. Littlejohn*, 195 Ala. 614, 71 So. 448:

"(It) . . . is a command of one duly authorized officer to another, whose duty it is to obey, to pay, from county funds, a specified sum to a designated person whose claim therefor has been allowed by the court of county commissioners."

The Supreme Court of Arkansas, in *Harriman National Bank v. Pope County*, 173 Ark. 243, 292 S. W. 379, stated:

"County warrants are evidences of the indebtedness of a county. They are orders upon the treasurer of the county to pay out of its funds for county purposes not otherwise appropriated, the amount specified."

In *People v. Board of Commissioners*, 11 Colo. App. 124, 52 Pac. 748, the term is defined as follows:

"A county warrant is the means by which funds for the payment of claims can be reached in the county treasury. It is the mode whereby money is transferred from the Treasurer of the county to its creditors and the payment of its debts effected, and some such method is absolutely necessary to the proper and accurate transaction of the county's business."

Justice Field, in *Wall v. County of Monroe*, 103 U. S. 74, 26 L. Ed. 430, tersely stated:

"They are orders upon the Treasurer of the county to pay out of its funds for county purposes, not otherwise appropriated, the amounts specified."

A comparatively recent pronouncement by the Circuit Court of Appeals (Tex.), in the case of *Tyler v. Shelby County*, 47 Fed. (2nd) 103, gives the ordinary meaning of the term to be:

"As usually understood, a county warrant is an authorized order or certificate for the payment of the stated amount . . . against the county out of public funds applicable to the payment of it."

County high schools may be established by a county under the provisions of Sections 1262 to 1263.31, inclusive, of the Revised Codes of Montana, 1935. Boards of trustees, appointed pursuant to Section 1263.3, supervise and control the administration of such schools with powers and limitations almost identical with those of district high schools. The contribution of the county to their support is secured through special tax levy. Their funds are kept in a separate and distinct account. (Section 1263.21.) Their budget is not prepared as a part of the regular county budget, provided for in Chapter 355 of the Political Code, Revised Codes of Montana, 1935. Their warrants are not based on orders of the County Commissioners. (Section 1263.22.)

Tested in the light of the foregoing distinctions and judicial concepts of the term "county warrants," I conclude that county high school warrants do not come within the ordinary meaning of the term "county warrants." The reduction of the rate of interest, therefore, provided by Chapter 15 of the Laws of 1941, does not apply to county high school warrants.

Sincerely yours,

JOHN W. BONNER,
Attorney General