

**Opinion No. 53-5678**

February 18, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Hon. Charles C. Mumma, Senator New Mexico State Senate Santa Fe, New Mexico

{\*72} On February 10th you wrote this office concerning the contemplated initiation of proceedings for the issuance of San Juan County hospital bonds. You mention that since the erection of a new county hospital in San Juan County a few years ago, the old hospital building has remained at its old site but unused for hospital purposes. It is the desire of the county to vote for and issue bonds for the purpose of remodeling this old county hospital so that it will contain adequate storage space, nurses' quarters, and an isolation ward, all to be used in connection with the new hospital. I understand that the "remodeling" will not include erection of new structures, or what will amount to a "reconstruction" of the old building. You ask whether San Juan County may validly initiate a bond proceeding for this purpose.

It is the opinion of this office that the contemplated bond issuance proceeding is prohibited by Art 9, § 10 of the New Mexico Constitution, which reads as follows:

"No county shall borrow money except for the purpose of erecting necessary public buildings or constructing or repairing public roads and bridges, and in such cases only after the proposition to create such debt shall have been submitted to the qualified electors of the county who paid a property tax therein during the preceding year and approved by a majority of those voting thereon. No bonds issued for such purpose shall run for more than fifty years."

You will note that this constitutional provision prohibits the borrowing of money by a county except for the purpose of "erecting necessary public buildings." It has been {\*73} recognized by our Supreme Court that under this language public buildings can be remodeled with funds obtained from such bond issues, **if the effect is to erect a new building. Tom v. Board of County Commissioners, 43 N.M. 292.** But a county bond issue merely for the purpose of remodeling or repairing a public building violates the Constitution. **Board of County Commissioners v. State, 43 N.M. 409.**

It is therefore our opinion that under the facts you have stated to this office, an issuance of bonds by San Juan County for the purpose of "remodeling" the old hospital would be violative of Art. 9, § 10 of the New Mexico Constitution.

We trust that this opinion has answered all your questions on this subject.

By: W. F. Kitts

Assist. Attorney General