

Opinion No. 64-84

June 19, 1964

BY: OPINION OF EARL E. HARTLEY, Attorney General Thomas A Donnelly, Assistant Attorney General

TO: Lowell C. Green, Secretary /- Supreme Court Bldg. Comm., Supreme Court Building, Santa Fe, New Mexico

QUESTION

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Pursuant to the Provisions of Chapter 20, First Special Session Laws of 1964, is the State Treasurer authorized to sell Supreme Court Building Debentures in accordance with such law, at a private sale?

CONCLUSION

Yes.

OPINION

ANALYSIS

The State Legislature by Laws 1964, First Special Session, Chapter 20, empowered the Supreme Court Building Commission to issue and sell debentures up to an aggregate amount of eight hundred thousand dollars for the purpose of acquiring, erecting, improving, constructing, altering, remodeling, extending, equipping and furnishing buildings and lands for use by the Supreme Court, the administrative office of the Courts, the Supreme Court law library and the Department of Justice.

Such enactment specifies in part that:

". . . the state treasurer shall sell such debentures to the highest bidder for cash at not less than par and accrued interest from the last preceding interest date to the date of delivery of the debentures, at public sale after advertising the time and place of sale for two consecutive weeks in one newspaper published in the city of Santa Fe, New Mexico, the first publication to be not less than twenty days prior to the date of sale, **or may sell the debentures at private sale to the bidder or bidders offering the highest price, not less than par and accrued interest, from the last preceding interest date to the date of delivery of the debentures, at the lowest rate of interest.**" (Emphasis supplied)

The language underscored above follows substantially the wording of Laws 1934 (S.S.) Ch. 14, Section 15 and as amended by Laws 1953, Chapter 102. The Supreme Court has upheld the original legislation in the case of **State ex rel, Capitol Building Comm. vs. Connelly**, 39 N.M. 312, 46 P 2d 1097.

Under the provisions of the above statute, it is our opinion that clearly such law invested the Supreme Court Building Commission with the option at its discretion to either elect to sell such building debentures at a public sale conducted in the manner specified, or to sell such bonds at private sale to a bidder or bidders at a negotiated or agreed price. If in the discretion of the Supreme Court Building Commission a favorable sale price for such debentures can be established by private sale, then patently the commission may under such statutory authority enter into an agreement to sell such bonds at an acceptable bid price by private sale without necessity for advertised bids. In all instances, however, such sale must be for an amount not less than par and accrued interest, from the last preceding interest date to the date of delivery of the debentures.