

Opinion No. 15-1612

August 5, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Messrs. Pershing & Titsworth, Denver, Colo.

As to power of municipal boards of education to issue bonds.

OPINION

{*185} I have received your letter of the 2nd inst. enclosing a memorandum brief on the subject of the power of municipal boards of education in New Mexico to issue bonds as evidence of indebtedness under the power which is clearly given in the codification of 1915, to borrow money, and from a hasty examination of your brief, while it is possible that the courts might construe the statute differently, yet I am inclined to agree with the conclusion which you reach, although, of course, further and more careful investigation when the occasion arises, may cause me to modify that opinion. Up to the present time no case has been presented which calls for a decision on that point. I assume that your attention has been directed to the matter on account of the proposed issue of school bonds by the City of Clovis, and I have heretofore advised the Assistant District Attorney, Mr. Hockenull, at that place, and later the firm of Sweet, Causey, Foster & Co. that it is unnecessary to consider the effect of the codification upon the power of the Board of Education so far as that particular issue of bonds is concerned because the sale was made on or before the first of June while the codification did not take effect until the 11th of June. Although the bonds may not have been printed, signed, sealed and delivered, yet it is not conceivable that anyone would hold that {*186} subsequent legislation would affect the validity of a contract already made, or impair the power of the Board to carry out the contract. The provisions in the federal constitution and in our constitution forbid the enactment of any law impairing the obligation of contracts.

I am obliged to you for sending me your brief as I have no doubt that sooner or later I will find it useful as probably other boards of education will attempt to issue bonds. If no other case arises before another session of the legislature, we will try to see that all possible doubt is removed by the enactment of proper legislation on this subject.