

Opinion No. 17-1936

February 23, 1917

BY: HARRY L. PATTON, Attorney General

TO: Hon. R. E. Brown, Treasurer of Curry County, Clovis, New Mexico.

Proceeds of Bond Issue of Municipal School District To Be Paid To City Treasurer.
County Treasurer Should Accept a Portion of Taxes Offered By Taxpayer Who Objects
To Assessment.

OPINION

I have both your favors of the 15th and 19th and have been delayed in answering the same by my absence from Santa Fe and an unusual amount of work in the office. In your favor of the 15th you say that you are completing the sale of a \$ 5,000.00 bond issue for School District No. 1. You desire to know whether you are to turn the proceeds of the sale over to the district authorities, and you state that the City Clerk, who is ex-officio clerk of the Board of Education, is under a very small bond. You also state that your bond will have to be increased by reason of this money passing through your hands.

You are advised that the proceeds from the sale of bonds shall be placed to the credit of the proper district to be paid out as provided for in the case of special district taxes, (Section 4902). The proceeds from special district taxes for cities, towns and villages must be paid to the treasurer of the Board of Education, (Section 8, Chapter 4, Laws of 1915). The County Treasurer shall take duplicate receipts therefor, one for his own office, and one to be transmitted to the clerk of the Board of Education. You will observe that the payment of the proceeds is to be made by you, not to the City Clerk as you state, but to the City Treasurer. By Section 4883, the Board of Education may require such bond from the City Treasurer as may be sufficient, so that your objection that the money will not be protected by bond, can be cured by the action of the Board of Education. I see no way in which you can avoid increasing your own bond to cover these moneys which pass through your hands as the law seems to be quite plain on that matter.

In your favor of the 19th you state that the Santa Fe has refused to pay that part of their taxes represented by the levy for State Charitable Institutions, and you wish to know whether you should accept the portion they offer, or whether you should refuse to accept anything unless the entire assessment is offered. I think that you may safely accept the portion that is offered, noting on the tax roll the amount which is paid and also noting thereon upon what particular levy payment was refused. You will of course not give them an official receipt, but merely give them a memorandum receipt reciting what levy they have refused to pay. The portion which they do not pay of course remains due and becomes delinquent and should go on the delinquent list when the

time comes, the same as any other tax that is unpaid. Of course the road people merely wish to test the matter in the court, no doubt, and if the court should hold the levy valid, the company will doubtless pay; if the court should hold the levy invalid, and order it abated, then you can give a receipt in full.

In my opinion this same rule applies to School District No. 12 with reference to the question which you say is presented in that district. As I have before stated you do not issue a tax receipt and their property is returned delinquent and sold for the unpaid portion of the tax. Whenever a taxpayer refuses to pay all the tax assessed against his property he does so at his peril and takes chances on the proceedings being held regular by the courts.