

Opinion No. [30-80]

July 7, 1930

BY: J. A. MILLER, Assistant Attorney General

TO: Sarah H. Fraser, County Treasurer, Reserve, New Mexico.

SCHOOLS -- Bonds: No commission allowed for sale of bonds, bonds must bring par and accrued interest.

OPINION

I have before me yours of the 2nd inst. with which you enclose a certified copy of an agreement between the Board of County Commissioners and Joseph D. Grigsby & Co., for the payment to the Grigsby Company of \$ 850.00 for acting as paying agent to pay to themselves money which you may send as principal and interest on school bonds purchased by them.

As, of course you and anyone else connected with this transaction will know, it is provided in Chapter 201 of the New Mexico Session Laws of 1929 as follows:

"None of such bonds shall be sold at less than par and accrued interest to the date of delivery to the purchaser, nor shall any discount or commission be allowed or paid on the sale of such bonds."

The attempt to discount these bonds 10% is, of course, on the face of it, so apparent as to need no explanation. To say that this amount is to be paid to the purchasers of the bond for services to be rendered in the future by such purchasers in the receiving of the principal and interest to be paid, is too thin a cover to get by under. For the county commissioners to make such an agreement is ultra vires and contrary to law and no such contract is enforceable.