

Opinion No. 41-3941

November 4, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. C. R. Sebastian State Comptroller Santa Fe, New Mexico

{*121} In your letter dated November 1, 1941, you inquire if certain revenue bonds issued pursuant to Chapter 57, Laws of 1933, may be sold at a discount.

Chapter 57, Laws of 1933, Section 3, as amended by Chapter 4, Laws of 1934, Section 2, provides as follows:

"Revenue bonds issued under the provisions of this Act shall bear interest at not to exceed six per cent (6%) per annum, payable annually or semi-annually, shall be payable at the option of such city, town or village at the end of ten years from the date thereof; and due by their terms in not more than twenty years from date thereof; as determined by the municipality; shall be serial in form and maturity and numbered from one upward, consecutively, and shall be sold for cash, at not less than par, and at either public or private sale."

There is nothing in this law to prohibit payment of legitimate expenses incurred in the issuance of the revenue bonds such as expense of printing the bonds, expense of legal proceedings, or the payment of engineering fees in connection with the plans and specifications and the construction of the utility. In the absence of statutory prohibition such expenses may be paid from the proceeds of the bonds issued. 44 C. J., Section 4188, Page 1216. However, since the law expressly forbids a sale of the revenue bonds for an amount less than par, any sale thereof by a municipality in violation of this provision would be invalid and the officers responsible for the same would be liable for the deficiency.

By C. C. McCULLOH,

Asst. Atty. General