

Opinion No. 46-4835

January 15, 1946

BY: C. C. McCULLOH, Attorney General

TO: Mr. G. T. Watts District Attorney Fifth Judicial District Roswell, New Mexico

{*172} In your letter dated January 10, 1946, you inquire whether a school district is authorized to issue school bonds for the purpose of repairs only. Article 9, Section 11 of the New Mexico Constitution provides in part as follows:

"No school district shall borrow money, except for the purpose of erecting and furnishing school buildings or purchasing school grounds * * *"

In connection with the powers of counties to borrow money, Article 9, Section 10 of the Constitution provides in part:

"No county shall borrow money except for the purpose of erecting necessary public buildings * * *"

In *Tom v. Board of County Commissioners*, 43 N.M. 292, 92 P.2d 167, and in *Board of County Commissioners against State*, 43 N.M. 409, 94 P. 2d 515, the Supreme Court held that the constitutional provisions relative to counties is a limitation on the power and that a county may not borrow money for the purpose of remodeling or repairing public buildings. By analogy, I am of the opinion that the same limitation would apply to school districts and that school districts can only borrow money for the purposes set forth in the Constitution after the procedure for the issuance of bonds for such purposes has been established by statute and in conformity with such statutes.