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1. BONDS ISSUED BY POLITICAL SUBDIVISION, SIX PER CENT — NOT PAID AT MATURITY, LACK OF FUNDS, UNLESS PROVISION TO CONTRARY, CONTINUE TO DRAW INTEREST — NAME AND ADDRESS HOLDER UNKNOWN.

2. WHERE FUNDS PROVIDED, PLACE OF PAYMENT AT MATURITY, INTEREST CEASES TO RUN, IF BONDS NOT PRESENTED FOR PAYMENT.

SYLLABUS:

1. *Six per cent bonds issued by a political subdivision which were not paid at maturity for lack of funds when presented at the designated place of payment, continue to draw interest at the specified rate unless there is some provision to the contrary either in the bonds or in the legislation under which they were issued, notwithstanding the name and address of the holder was unknown to the officers of the subdivision during the period of default.*

2. *When sufficient funds for the payment of bonds issued by a political subdivision are provided at their place of payment at maturity, interest ceases to run at that time if the bonds are not presented for payment.*

Columbus, Ohio, June 26, 1941.

Hon. Howard E. Faught, Prosecuting Attorney,
Cambridge, Ohio.

Dear Sir:

Your letter of June 11, 1941, requesting my opinion with respect to the liability of the Byesville school district for the payment of interest on two of its outstanding bonds after maturity, was duly received. The two cases stated in your letter are as follows:

> "1. The holder of a school bond presented the same for payment at maturity, at which time there were insufficient funds for its redemption. Presentment was made in 1931 at maturity date through a bank in Cincinnati, Ohio. A demand for payment was made on the clerk of the Byesville School District through the National Bank of Byesville. After presentment the owner of the bond did not again present the same for payment until a lapse of nine years, at which time presentment was made and demand for six per cent interest for a period of nine years. The School Board had no means of ascertaining the location of this bond during this period. Money was available shortly after maturity date, but no available means were open to the School Board to ascertain the location of the holder of this bond. Would the School Board be liable for the payment of interest at the rate of six per cent, which interest rate appeared on the bond, from the date of maturity until the date of presentment, a lapse of nine years?
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> 2. The School Board issued a bond payable in ten years, bearing interest at the rate of six per cent. At maturity this bond was not presented. Nine years from the date of maturity the bond was presented for payment and a demand made for interest at the rate of six per cent for the full nine years. Would the School Board be liable for the payment of interest only to the date of maturity or would they be liable for the payment of interest until the date of presentment, which occurred nine years after date of maturity? The School Board had funds sufficient to retire this bond at the date of maturity."

The liability of a political subdivision for the payment of interest on its bonds after maturity, including bonds which had been and bonds which had not been presented for payment at maturity, was considered in 1920 Opinions of the Attorney General, No. 1753, page 1230, and also in 1932 Opinions of the Attorney General, No. 4630, page 1073. The latter opinion (omitting formal parts and the authorities cited and quoted) reads as follows:

"The general rule supported by the weight of authority is that, in the absence of statutory provisions to tthe contrary, bonds of a political subdivision which are not paid at maturity continue to bear interest until they are paid. * * * I find no statute which indicates an intent that unpaid bonds should cease to bear interest after maturity. Of course, if the money is available to pay the bonds at maturity and they are not presented for payment at the place at which they are payable, interest would cease to run at maturity.

I am therefore of the opinion that bonds of a political subdivision which are not paid upon presentation at maturity continue to bear interest until they are paid."

I have examined the authorities cited by the former Attorney General, and find that they support the opinion in its entirety. In addition to the authorities quoted in that opinion, the following quotation from 44 Corpus Juris, Page 1236, Section 4221, which deals with facts and circumstances similar to those mentioned in your letter, also supports the opinion:

"Unless a contrary intent is indicated by statute, interest-bearing or coupon bonds of a municipality, which are not paid upon demand at maturity, continue to bear interest, and the same is true of coupons which are not paid. The rate of interest after maturity is the same as that before maturity. It has been held that the city is not liable for interest accruing after maturity where it has funds on hand to pay the bond at maturity and the bond is not then presented at the municipal treasury; but it is also held that, where there are no funds to pay bonds if presented, they will continue to draw interest, although not presented, and that where no actual notice is given to the holder of an interest-bearing municipal bond which is overdue to present it for payment and surrender and there is no statutory method provided for the calling in of such a bond and fixing a day beyond which interest will not run, interest will continue to accrue on such an obligation in the same manner as upon an ordinary note of a private person."

I know of no rule of law that would relieve the Byesville school district from the payment of interest on the defaulted bond referred to in your first case, merely because its officers had no knowledge as to the name and address of the holder during the period of default, nor do I know of any rule that would require the school district to pay interest after maturity upon the bond referred to in your second case, which was not presented for payment at maturity, but which, had it been presented, would have been paid from funds provided for that purpose.

In view of the foregoing authorities, it is my opinion that unless there is some provision to the contrary, either in the legislation under which the bonds were issued or in the bonds, the bond referred to in your first case will draw interest at the rate of six per cent per annum from its maturity until paid, but inasmuch as sufficient funds were provided for the payment of the bond referred to in your second case at maturity, and this bond would have been paid had it been presented, interest on such bond ceased at its maturity.

Respectfully,

THOMAS J. HERBERT,

Attorney General.