28 December 1946

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Mrs. Myrtle Harris,
Deputy State Auditor
Capitol Building
Phoenix, Arizona

Dear Mrs. Harris:

In your letter of 24 December 1946 you request our opinion on the steps to be taken by your office and the town of Wickenburg with respect to refunding properly certain bonds of the town. According to your statement, a call was made and advertised for three groups of bonds described by date of issue, amount, and serial numbers. However, the description by numbers was, in certain cases, erroneous and the question arises as to proper future procedure.

Section 10-[illegible], A.C.A. 1939, on the subject of bond redemption, requires that four weeks' notice be given of intention to redeem the bonds, and provides that interest shall run until the expiration of the notice period. Since the statute is in mandatory terms, it follows that as a result of the defective notice, those bondholders not offering their bonds for redemption must be given a proper notice. This means another call and advertisement for such bonds as had not been properly advertised.

With regard to those bonds turned in by the holders despite the defective notice, the loan committee may accept such bonds and make payment therefor without further notice. The notice of redemption the statute extends to the bondholder is a matter of right for his protection which he may waive by voluntary presentation of his bond in response to the call.

It is, therefore, our opinion that another correct notice of redemption should be advertised covering those bonds incorrectly advertised in the first place, except for such bonds as have been presented for redemption to the state.

Very truly yours,

JOHN L. SULLIVAN
Attorney General

WILLIAM P. MAHONEY, Jr.,
Assistant Attorney General

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