

### **Mothers' Pensions—Aggregate Amount of.**

By the clause "the aggregate amount of such warrants shall not exceed fifty per cent of such fund" appearing in Chapter 257 of the Laws of 1921, is meant that there shall not be expended for mothers' pensions more than one-half of the total Poor Fund, and that warrants may not be drawn or paid for the same so as at any time to exceed 50 per cent of the total Poor Fund actually collected at the time of drawing the warrants.

N. A. Burkey, Esq.,  
County Attorney,  
Broadus, Montana.

My dear Mr. Burkey:

You have asked for an interpretation of Section 4 of Chapter 83 of the Fifteenth Legislative Assembly, as amended by Section 2, Chapter 257, Laws of 1921, relating to mothers' pensions, which reads as follows:

"Whenever the Judge shall determine that the allowance under this act shall be made, he shall make an order in writing to that effect, which order, among other things, shall set out the full name of the mother, her place of residence by street and number where possible, the names and ages of the children and the amount allowed to each child, which order shall be filed with the Clerk of the Court and recorded as orders in probate proceedings are recorded, and upon presentation of a certified copy of such order the County Commissioners shall direct monthly warrants to be drawn therefor, subject to the other provisions of this act. All warrants drawn under the provisions of this act shall be drawn upon the Poor Fund of the County; provided that the aggregate amount of such warrants shall not exceed fifty per cent of such fund."

Your request is especially directed to the last provision of the section, reading: "provided that the aggregate amount of such warrants shall not exceed fifty per cent of such fund."

It would seem from the provisions of the Act that the intention of the Legislature was that not to exceed one-half of the funds collected for the care of the poor should, in any event, be used in payment of

widows' pensions, and that the other 50 per cent would be preserved for the care of the poor in other ways as provided by law.

The Poor Fund being made up, in part, of poll taxes is uncertain in amount until actually collected. It is not made up of taxes levied upon property, and the amount that will come into the fund may not be anticipated or computed in advance as property taxes may be. It is presumed that the Legislature had this in mind, and that the present law was framed in view of the existing laws establishing the Poor Fund. Hence the fact that Chapter 257 contains no authority to draw any warrant in anticipation of taxes, taken in conjunction with the above language, leads to the conclusion that the Legislature intended that the money should be disbursed for this purpose only as it is actually collected. No other method would give any assurance that such warrants would ever be paid, or that not to exceed 50 per cent of the total would be used for mothers' pensions.

It is, therefore, my opinion that "the aggregate amount of such warrants shall not exceed fifty percent of such fund" means that in no case during any year, shall there be expended for mothers' pensions more than one-half of the total Poor Fund, and that warrants may not be drawn or paid for the same so as at any time to exceed 50 per cent of the total Poor Fund actually collected at the time of drawing such warrants.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.