Bounty, Payment Of. Constitutional Amendment, Not Retrospective.

The money raised for bounty purposes by the special tax levy authorized by the constitutional amendment of 1910 cannot be used for payment of old bounty claims which accrued prior to enactment of said constitutional amendment.

February 9, 1911.

Hon. F. D. Herbold, Chairman,
Live Stock and Public Range Committee,
House Chamber, Helena, Montana.

Dear Sir:

I am in receipt of your verbal request asking for an opinion from

this department upon the following question:

> "Can money raised for bounty under the constitutional amendment of 1910 be applied in payment of old claims?"

Under the provisions of Chapter 4, Laws of 1909, Section 9, Article XII, of the Constitution of Montana was by an election held in November 1910 amended to authorize the state board of equalization to levy a special tax on live stock for the purpose of paying bounty on wild animals and for stock inspection, protection and indemnity purposes as may be prescribed by law and such special levy shall be made and levied annually, etc.

It is my opinion that the money raised by the levy contemplated by such constitutional amendment could not be used in the payment of old claims which accrued prior to the enactment of said constitutional amendment, there being no provision in such amendment that the same should be retrospective. This opinion, I believe, is supported by Cooley on Constitutional Limitations, 4th Edition, page 76, in which the author states,

> "A constitution should operate prospectively only unless the words employed show a clear intention that it should have a retrospective effect."

Further as was stated by Chief Justice Fuller in the case of Schereveport vs. Cole, 129 U. S. 43:

> "Constitutions as well as statutes are construed to operate prospectively only unless on the face of the instrument or enactment the contrary intention is manifest beyond reasonable question."

This view is further supported by the supreme court of Montana in the case of State vs. Kinney, 11 Mont. 553.

Yours very truly,

ALBERT J. GALEN,

Attorney General.