

Seed Grain, Purchase of by County Commissioners. County Commissioners, Authority to Purchase Seed Grain. Indebtedness, of County for Single Purpose.

The expenditure of money for the purchase of seed grain to supply needy persons under the provisions of House Bill No 107 of the Fourteenth Legislative Assembly is a single purpose within the limitation of Section 5, Article XIII of the Constitution.

March 13, 1915.

Hon. D. J. Sias, Jr.,
County Attorney,
Chinook, Montana.

Dear Sir:

I am in receipt of your communication under date the 2nd instant, requesting my opinion as to whether the expenditure of moneys for the purchase of seed grain for needy persons, under the terms of House Bill No. 107 of the Fourteenth Legislative Assembly, is a single purpose within the limitation of Section 5 of Article XIII of the State Constitution, which prohibits any county from incurring any indebtedness or any liability for any single purpose to an amount exceeding ten thousand dollars, without the approval of a majority of the electors thereof? It is to be noted at the outset that the moneys used for this purpose are not to be taken from any of the funds of a county in the ordinary course of business. As stated in the first lines of the first section, the authority granted by the Act is to be exercised.

"Where the crops for the preceding year have been a total or partial failure, by reason of drought or other cause."

and

"whenever said Board shall be petitioned in writing to do so by not less than one hundred freeholders resident in the county."

That is, this is an expenditure out of the ordinary course of the business of the county to be made only as occasion required. It is, therefore, analogous to an expenditure for a bridge, a high school building, court house or a poor farm.

In the very recent case of Panchot vs. Leet, decided February 23rd, 1915, the Supreme Court of this State says:

"It is perfectly obvious that the distribution of various amounts for the relief of various indigent persons, even though the aggregate exceed ten thousand dollars taken from the

county poor fund, is in no wise analagous to the expenditure of a sum certain for a single purpose of erecting a public building founded on a liability for a single occasional purpose, forbidden under certain conditions. * * * The Constitution still stands 'mandatory and prohibitory,' and Section 5 of Article XIII is still intended to limit the power of every county through any agency whatever, as to an expenditure for a single purpose to a certain figure, unless the approval of the people for such an expenditure has been previously secured."

The conclusion seems irrefutable that this is an extraordinary special expenditure of money. It can only be made in a certain way after a petition has been presented. It is not altogether discretionary with the Board whether they expend the money for the purposes named in the Act. It is true Section 8 of the Law provides that warrants may be drawn on the general fund in lieu of issuing bonds, but this is merely changing the method of getting the money, and the form of the liability, and does not change the purpose for which the money thus obtained is expended.

For the reason above indicated, I am of the opinion that the expenditure of money for the purchase of seed grains to supply needy persons, is within the limitation of Section 5 of Article XIII of the Constitution of Montana.

Yours very truly,

D. M. KELLY,

Attorney General.