

Schools—Taxes—Levies.

Section 1203, R.C.M. 1921, as amended, construed in connection with section 13, chapter 146, laws of 1931, as mandatory for requiring a levy for the period from July to December of the succeeding year.

Mr. J. H. Forster,
County Attorney,
Malta, Montana.

August 3, 1931.

My dear Mr. Forster:

I have your letter with enclosures in which you are concerned over item 14 of the budget.

This item covers reserve cash to maintain school from July 1st to December 1st of the following school year. Section 1203 of the revised codes, which provides for the special 10 mill levy, contains the following:

“The trustees of each school district shall, at the same time in addition to the foregoing, separately certify the amount of money needed to maintain the schools of the district, to furnish additional facilities, appliances and apparatus as may be needed to maintain the schools of the district from July 1st to November 30th of the next succeeding year.”

Under this section and by reason of the foregoing language it is just as essential to include in the levy the amount needed to conduct school for the succeeding year as it is to cover the cost of school for the current year. The language is “shall” as to both the levy for the current year and the portion of the succeeding year, so that there would be no justification for construing “shall” as “must” in the first instance and as “may” in the second.

I note what Mr. Woody has to say in regard to the necessity of making this levy for the succeeding school year, and that unless provision is made to take care of this portion of the succeeding year that they will not be able to hold school for that time in the succeeding year. This conclusion is probably due to the mandatory provisions of the budget act which requires provision to be made for these various items and also provides that when the amount of any item has been exhausted that no further warrants can be drawn against such item.

It is not necessary to hold at this time that failure to make provision for item 14 will have such effect. There will be another budget prepared and approved before it is necessary to resort to this item for facilities, appliances and apparatus to maintain school. If ten mills plus other levies, if any have been voted, and all other moneys apportioned to the district will not produce sufficient money to meet the necessary budget estimates for the current year, then the budget board must reduce or strike out items to such extent that the total estimated expenditures will not exceed the total amount of estimated receipts. (Section 13, chapter 146, laws of 1931.) As between holding school in a portion of the

present year or holding it in a portion of the succeeding year, where there is not money enough for both years, provision should be made for the present and leave the future to be provided for when it arrives. At least you will then be no worse off if you are obliged to close school.

Very truly yours,

L. A. FOOT,

Attorney General.