

June 26, 1933.

Your letter of recent date and copy of opinion accompanying it, relating to the budget for and tax levies to be made in the County of Musselshell for the ensuing fiscal year, have been received.

We agree with you that under the provisions of Chapter 148, Laws of 1929, the board of county commissioners has the power to reduce the estimate of expenditures required by any county office or department in making up the preliminary county budget, with the view of keeping expenditures within the anticipated revenue. More than that, it is the duty of the board to do so.

We further agree with you that the tax levies of 2 mills heretofore made by the board of county commissioners of Musselshell County, to replace school district funds lost in banks which failed prior to June 30, 1931, cannot be said to have been made for general fund purposes. If in its efforts to replace such school district funds it did not proceed according to the provisions of Chapter 159, Laws of 1931, it should now proceed according to the provisions of Chapter 51, Laws of 1933. It may, as is therein set forth, issue funding bonds or levy a special tax sufficient in amount to pay all the floating indebtedness, including the sums still due the school districts, or levy a special tax each year, over a period of five years, sufficient in amount to pay twenty per centum of such indebtedness. The proceeds of the levy, if any, should be placed in a fund to be known and designated as the "Debt Reduction Fund." (See *State v. McGraw*, 74 Mont. 152; *Henderson v. Dawson County*, 87 Mont. 122).

You state in your opinion that Chapter 159 is such a special statute as is contemplated by subdivision 13 of Section 1, Chapter 100, Laws of 1931. That is doubtful. We think it is a general law. (*State ex rel. Roundup Coal Mining Co. v. Industrial Accident Board*, 94 Mont. 386; *State ex rel. Federal Land Bank v. Hays*, 86 Mont. 58). That however, does not alter our view that the two-mill levy is no part of, in fact is distinct from, the general fund levy.

We believe as you do that under the provisions of Chapter 148, the board may include in the budget an amount

#### Opinion No. 254

#### County Commissioners—Budget—Counties—Levies—Schools, Funds Lost in Bank Failure—Warrants, Interest on.

HELD: Under the provisions of Ch. 148, Laws of 1929, it is the duty of the county commissioners to reduce the estimate of expenditures required by any county officer or department in making up the preliminary county budget, with the view of keeping expenditures within the anticipated revenue.

The tax levies of two mills heretofore made by the county commissioners of Musselshell County to replace school district funds lost in banks which failed prior to June 30, 1931, cannot be said to have been made for general fund purposes. If the board did not proceed according to the provisions of Ch. 159, Laws of 1931 (which is a general and not a special statute as contemplated by Ch. 100, Laws of 1931) it should now proceed according to Ch. 51, Laws of 1933.

Under the provisions of Ch. 148, Laws of 1929, the board may include in the budget an amount sufficient to take care of the interest on registered warrants and an amount to apply on the redemption of outstanding warrants.

sufficient to take care of the interest on registered warrants and an amount to apply on the redemption of outstanding warrants. Before doing so, however, it must observe the provisions of Chapter 51, Laws of 1933.