

Opinion No. 459.**State Officers—State Board of Land Commissioner—Petitions.**

HELD: The petition to the Reconstruction Finance Corporation, to obtain a loan, containing no reference to the execution of a contract between the petitioning Irrigation District and the United States or any instrumentality of the United States, should not, in its present form, be signed by the State Board of Land Commissioners, such action not being expressly authorized by Section 1, Chapter 58, Laws of 1929.

February 14, 1934.

It appears from your letter to us of the 18th ult., that the Cove Irrigation District in Yellowstone County is a regularly established and organized irrigation district in which the State of Montana owns some school lands; that the par value of its outstanding bonds is the sum of \$258,500.00, and that it has defaulted in the payment of installments of the principal to the extent of \$44,000.00 and in the payment of interest thereon to the extent of \$31,020.00. It appears further from your letter that the bondholders, by way of compromise, are willing to accept fifty cents on each dollar of the principal sum which the irrigation district so owes. To meet the situation thus presented the Board of Commissioners of the irrigation district has applied to the Reconstruction Finance

Corporation for a loan of \$130,750.00. With the view of expediting the necessary proceedings and making the loan a reasonable certainty, a special committee appointed for the purpose has requested all owners of lands within the irrigation district, including the State of Montana, to sign a petition addressed to said Board of Commissioners to the following effect:

"That the municipal coupon bonds of Cove Irrigation District in the aggregate amount of \$130,750.00, be authorized and issued by said district for the purpose of redeeming or paying all or a portion of the existing indebtedness of said district evidenced by the outstanding bonds of said district bearing date the 25th day of October, 1922, in the aggregate principal amount of \$258,500.00, and for the purpose of liquidating the expenses necessary for the completion of the re-financing program."

You apparently doubt the power of the State Board of Land Commissioners to sign such petition in behalf of the State of Montana and have asked us for an opinion on the question of law involved.

Section 1 of Chapter 58, Laws of 1929, provides that the State Board of Land Commissioners "for and on behalf of the State of Montana is hereby empowered to sign a petition for the inclusion of any lands belonging to the State in an irrigation district organized or to be organized for the purpose of cooperating with the United States under the Federal Reclamation Laws or any Act of Congress relating to Reclamation projects, and to sign any petition for the execution of a contract between such district and the United States * * *."

In requesting the State Board of Land Commissioners to sign the petition in behalf of the State of Montana the committee doubtless entertained the view that the provision just quoted gave it authority so to do. But, while the purpose of the proceeding may be, as stated above, to obtain a loan from the Reconstruction Finance Corporation, an instrumentality of the United States, to retire the outstanding bonds of the Cove Irrigation District, still a reading of the petition discloses that it contains no reference whatever to the execution of a contract between the district and the United States or

any instrumentality of the United States.

It is a rule of universal application that state officers, boards and commissions may exercise only such powers as are expressly given to them by constitutional provision or statutory enactment and such powers as are necessarily implied from those so given. They have no powers beyond those granted by express provision of law or necessary implication. (State ex rel, Jones v. Erickson, 75 Mont. 429; 59 C. J. 111.)

We, therefore, advise that the petition, in its present form at least, be not signed by the State Board of Land Commissioners.