

county in the construction of a new courthouse.

Section 5 of Article XIII of the Constitution of Montana limits the indebtedness of a county to five per cent of the taxable value. Chapter 188 of the Laws of 1931, as amended by Chapter 115 of the Laws of 1933 fixes the limit of a county's indebtedness for this purpose, together with other purposes, at two and one-half per cent of the value of the taxable property in said county. It is to be noted that the statutory limitation is very much less than the limitation as fixed by the Constitution. The question, therefore, is whether the Constitution or the statute shall govern.

This question was considered in the case of Heckman v. Custer County, 70 Mont. 84, and in that case it was held that the Constitution contained a limitation on the power of counties to create indebtedness and was not a grant of power, and that the legislature might limit the indebtedness which could be incurred by counties to an amount less than the Constitutional limitation.

As this matter has been decided by the Supreme Court of this state, you must be governed by the limitation fixed in the statute cited.

The fact that Sheridan County does not own a courthouse and is renting an old building from the local school district would not prevent the operation of the statute, or in any manner authorize you to disregard same.

Opinion No. 157.

**Counties—Limitation of Indebtedness
—Court House, Building.**

HELD: In the building of a courthouse the county may not exceed the 2½% limit of indebtedness fixed by statute and this is true even though the county does not own a courthouse.

August 20, 1935.

Mr. Vernon Hoven
County Attorney
Plentywood, Montana

You inquire as to the limitation of indebtedness to be incurred by your