

## No. 49

**COUNTIES—COUNTY COMMISSIONERS—PROJECTS—  
TAXATION LEVY UNDER CHAPTER 85, LAWS OF 1937,  
When Made**

**Held:** Projects sponsored under Chapter 85, Laws of 1939, prior to March 15, 1941, may be completed after that date and levy to retire warrants issued may be made at any time thereafter.

March 18, 1941.

Mr. S. A. Simonson, Chairman  
Board of County Commissioners  
Phillips County  
Malta, Montana

Dear Sir:

You have requested my opinion as to whether or not, under the provisions of Substitute House Bill 337, Legislative Session of 1941, your Board may continue to levy for projects now under construction and sponsored prior to March 15, 1941.

Section 1 of this Bill provides:

“Section 1. In order to complete sewing projects and any project under construction by any Federal Agency, and sponsored prior to March 15, 1941, by any county, city, town or school district, such county, city, town or school district may furnish such materials, equipment, rentals, supplies and supervision therefor as may be necessary to complete the same, and when no funds or not sufficient funds are available to pay for such materials, equipment, rentals, supplies or supervision, may issue relief fund warrants therefor, in the amount and in the manner hereinafter provided.”

If these projects were sponsored prior to March 15, 1941, under the provisions of Chapter 85, Laws of 1937, as amended by Chapter 209, Laws of 1939, the commissioners were thereby authorized to levy, within the limits therein provided, to pay warrants issued pursuant to such authority, to the extent of the amount authorized. Such levy could be made even after the expiration date of the Act (March 15, 1941). Our Supreme Court

held in the case of *Kraus v. Riley et al.*, 107 Mont. 116, 120, 80 Pac. (2nd) 864, as follows:

"The question here presented is whether taxes may be levied and collected after March 15, 1939, in order to raise money with which to pay warrants issued prior to that date and for a project completed before that date.

"When relief warrants are issued they become an obligation of the political subdivision issuing the same, and it cannot be said that the legislature intended by the Act limiting its effective date to March 15, 1939, to impair the obligation of the political subdivision to pay them, contrary to the express mandate of the Constitution. (Art. III, Sec. 11.) Reasonable construction of Chapter 85 impels the conclusion that it should not exist after March 15, 1939, as authority for the creation of further obligations, but that any obligations already incurred and for which warrants had been issued would still remain as obligations of the political subdivision and that there still would be authority in such subdivision to levy taxes in order to discharge the obligation."

Section 1 of Substitute House Bill No. 337 authorizes the completion of projects sponsored prior to March 15, 1941.

It is therefore my opinion the county may complete projects sponsored prior to March 15, 1941, and issue emergency warrants in payment of the cost thereof to the extent of the levy limited by Chapter 85, Laws of 1937, and may levy to retire said warrants even after the expiration date of the Act, March 15, 1941.

Sincerely yours,

JOHN W. BONNER  
Attorney General

(Editor's Note: Substitute House Bill No. 337, referred to above, appears as Chapter 143, Laws of 1941.)