

Opinion No. 21-3184

November 8, 1921

BY: A. M. EDWARDS, Assistant Attorney General

TO: Mr. J. M. Ortiz, Deputy Treasurer, Park View, New Mexico.

County Expenses Payable Out of Taxes Levied in Previous Year.

OPINION

{*96} I have your letter of November 4, in which you quote from circular letter No. 77, received by you from the Traveling Auditor, Mr. Whittier. You state that Mr. Whittier advised you as follows:

"The laws of 1921, Chap. 187, the County Budget Law, goes into effect with the collection of the 1921 tax roll, and the provisions of said law are drastic, and moneys collected under the 1921 tax roll must be used exclusively for 1921 expenses, and the county clerks should issue all warrants from and after the time the 1921 tax rolls are delivered so as to show the year against which issued, whether for 1920 and prior or for 1921, and the treasurer should only pay such warrants against the fund on which so drawn."

It is evident that Mr. Whittier refers to Chapter 188 of the Laws of 1921, instead of Chapter 187. Mr. Whittier is wrong in his construction of the County Budget Law. There is nothing in the Act which requires that the taxes collected from the 1921 tax roll shall be used exclusively for 1921 expenses. As you state in your letter, it would be practically an impossibility to make any such financial arrangement. It has always been the custom for the county expenses of one year to be paid out of the revenues derived from the taxation from the previous year. This is the only workable plan under the law. You and the other county officers should so keep your accounts that under the new County Budget Law the revenues coming from the tax roll for the year 1921 shall be expended to cover the items included in the budget for the year 1922.

The foregoing explanation answers all the other questions in your letter, -- or, rather, obviates the necessity of answering them.