OPINION
52-170

April 17, 1952 (OPINION)

TAXATION

RE: County Library Levy Not Within 18 Mill Limitation

According to your letter of April 5, 1952, Williams County is levying the full 18 mills as authorized by Section 57-1506 of the 1949 Supplement of the Revised Code of 1943 and they are now contemplating an additional levy for library and reading room purposes. You therefore request an opinion from this office as to whether or not the county library and reading room levy could be in excess of the 18 mills.

Prior to its amendment, Section 57-1506 of the North Dakota Revised Code of 1943 provided that the board of county commissioners could not levy any taxes for general or specific purposes which would exceed the amount produced by a levy of 11 mills on the dollar of the net taxable valuation of the county. Subsequently Section 57-1506 was amended and the levy limitation was raised from 11 mills to 18 mills.

Section 40-3802 of the North Dakota Revised Code of 1943, as amended, provides that a county may levy a tax for library or reading room purposes and that the county tax shall "not be subject to the eleven mill limitation."

Statutes are to be construed to give effect to the intention of the legislature. All rules of construction of statutes are subservient to the rule that the purpose and intent of the lawmakers should be given effect. When the legislature provided by Section 40-3802 that county levies for library and reading room purposes should not be subject to the 11 mill limitation, they, in effect, stated that such a levy should not be subject to statutory limitation and merely referred to the limitation in effect at that time. If a levy could be made without limitation prior to the amendment of Section 57-1506 it would neither seem logical nor in harmony with the legislative intent to now hold that the levy is subject to a limitation.

A general rule is that when an adopting statute makes no reference to any particular statute but refers to the law generally which governs a particular subject, the reference in such a case includes not only the law in force at the date of the adopting act but also all subsequent laws or amendments of the particular subject referred to. When the language of the adopting act is such as to evidence an intention on the part of the legislature that the act as it then existed and as it might thereafter be amended is to be adopted, the courts will give effect to that intention and the adopted act and amendments thereto will be held to be within the adopting act and govern the subject matter thereof.

It is our opinion that the above general accepted rule is applicable and therefore when Section 40-3802 referred to the limitation, it was

a general referral and would include later amendments of the limitation statute. To hold otherwise would defeat the legislature's purpose and intent which, in the opinion of this office, is apparent from the wording of Section 40-3802.

ELMO T. CHRISTIANSON

Attorney General