

**OPINION
52-192**

January 23, 1952 (OPINION)

TOWNSHIPS

RE: Dissolution, Use of Road Surfacing Fund

In yours of the 22nd inst. you request the opinion of this office upon the two following questions, to-wit:

An organized township in the county dissolved effective January 1, 1952. Prior to their dissolution, they had made special levies to surfacing their roads, and the money has been set aside for the sole purpose of surfacing roads. Upon their dissolution, there is money in that fund. The question is this: can the county commissioners use the money for any other purpose, or must it be used only for graveling roads in the township?"

A tax was levied in the year 1951 pursuant to the special levy, which tax will be paid in 1952. Must the money collected by the county upon that special levy for the 1951 taxes be used in the township for the purpose of road graveling or can it be used elsewhere in the county?"

The rule is that money raised by taxation can only be used for the purpose for which the levy was made. If that purpose is effected without the expenditure of the whole fund, the excess may be transferred to the general fund of the taxing district. Since the purpose here is for graveling roads generally and not for graveling any specific road, it would appear that there can be no such excess. Therefore, it is our opinion that, referring to your first question, the county commissioners must use this levy for graveling roads in the boundaries of the original township in which the levy was made and for no other purpose.

And with respect to your second question, it is our opinion that, if the special levy mentioned was a county levy for the county road fund provided for by chapter 24-05, the portion of such fund levied against property in the dissolved township goes into the county road fund and may be used anywhere in the county in the discretion of the county commissioners. If, however, this special levy was made by the township, the funds arising from the township levy must be used exclusively in the territory of the dissolved township.

ELMO T. CHRISTIANSON

Attorney General