

Counties—Reclassification—Power of Commissioners to Reclassify.

A county, which did not lose territory in the creation of a new county or counties between January 1, 1919, and the date of the first regular meeting of the Board of County Commissioners in September, 1920, could not be reclassified prior to the corresponding meeting of 1922.

A county, losing territory in the creation of a new county at a date subsequent to the date of the first regular meeting of the Board of County Commissioners in September, 1920, cannot be reclassified thereafter, but must retain the classification it had at such date until the reclassification at the proper time in 1922.

Board of County Commissioners,
Roundup, Montana.

Gentlemen:

You have requested my opinion on the following questions:

“1. Did the County Commissioners of Musselshell County have any authority to make a reclassification of the county on the 8th day of December, 1920?

"2. If so, what valuation should the board have used as the basis for such reclassification? The valuation of the county at the time of the first meeting in September, or that on the 8th day of December, 1920?"

The facts, as I understand them from your letter, are that, at the time of the first regular meeting of the Board of County Commissioners in September, 1920, the valuation was such as to make the County of Musselshell a county of the fourth class and that it was operating under the classification which had been fixed at a previous time. That subsequently to the date of the first meeting in September, 1920, to wit, in October, 1920, a portion of Musselshell County was included in the County of Golden Valley. That at the December, 1920, meeting of the Board of County Commissioners, they entered an order reclassifying Musselshell County as a county of the sixth class, based on the valuation of the said county at that date.

Section 2975, Revised Codes of Montana of 1907, furnishes the authority for reclassification of counties, while Chapter 24, Extraordinary Session Laws of the Sixteenth Session, furnishes the table of valuations therefor.

Section 2975, *supra*, says that the several Boards of County Commissioners must, at the regular September meeting in every even-numbered year, reclassify their respective counties. Chapter 24, *supra*, contains a provision to the effect that only counties from which territory had been taken in the creation of new counties since January 1, 1919, may be reclassified under the provisions of said Chapter 24 prior to March 10, 1921.

Musselshell County was not of the character contemplated by the proviso on the date of the first meeting of its Board of County Commissioners in September, 1920, and hence could not be reclassified at that date. (See Vol. 8, Opinions of Attorney General, pp. 445, 488, 520.)

Chapter 24 above does not affect Section 2975 in any other manner than as stated. It does not change the date of reclassification of counties, losing territory to new counties, from that specified in said Section 2975. It does not give authority for a reclassification of a county losing such territory after the September meeting of its Commissioners at any date thereafter.

Section 2975 is still the law, and counties must still await the date of the regular meeting in September, in even-numbered years, before the Commissioners have power or authority to reclassify. Just what the Legislature had in mind in using the date of March 10, 1921, as the limit for reclassification, I am unable to ascertain, but I do not believe that it was intended in any way to change Section 2975, above, other than to suspend the operation thereof for the year 1920 for all counties, except those whose area had been reduced by the creation of new counties since January 1, 1919. All other counties must wait until the next even-numbered year thereafter, to wit, 1922, before making a reclassification based on the tables of valuation in Chapter 24, above,

and those losing territory must, in order to be reclassified under Chapter 24, have lost their territory prior to and be classified at the September, 1920, meeting of the County Commissioners.

Therefore, it is my opinion that the act of the Board of County Commissioners, in attempting to reclassify Musselshell County in December, 1920, was null and void, and that the county will retain the classification it had at the date of the first regular meeting of the Board of County Commissioners in September, 1920, until after the regular meeting in September, 1922.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.