

New County, Assessor of. County Assessor, Duties of. Assessment Roll, Completion of. Equalization, Board of.

The provisions of law relating to duties of county assessors are mandatory. The County Assessor must prepare an assessment book, complete it and deliver it to the County Clerk on or before the 2nd Monday in July of each year. Where a new county is created and the assessor has not the full time allotted to assessors in established counties within which to perform his duties and his failure to deliver the assessment roll is unavoidable, the Board of Equalization may make use of the original files and records of the assessor, but the assessor must deliver the assessment book before the 2nd Monday of August, on which day the Board of Equalization must adjourn.

July 11, 1914.

Hon. W. M. Black,
County Attorney,
Shelby, Montana.

Dear Sir:

I have your letter requesting an opinion as follows:

"Our county assessor cannot complete his report to the board of county commissioners for their meeting on the matter of equalization to be held soon for the reason that the Tribune Publishing Co. of Great Falls have not furnished him the neces-

sary tax book. I have based my search on Chap. V., Art. 1 of the Revised Codes of 1907. I can find nothing in the New Counties Act of either 1911 or 1913. We have written the publishing company, which secured the printing contract, to forward this at once if possible. However, if he had it at present he could not complete it in time. What action will the board of commissioners take in a matter of this kind? What can the assessor do?"

You are advised that the provisions of the law relating to the county assessor are mandatory. Section 2510, Revised Codes, 1907, requires him between the first Monday of March and the second Monday of July in each year, to ascertain the names of all taxable inhabitants, and all property in his county subject to taxation, except such as is required to be assessed by the state board of equalization. Section 2543, *idem*, requires him to prepare an assessment book with appropriate headings, alphabetically arranged, unless otherwise directed by the State Board of Equalization, in which must be listed all property within the county. Section 2544 provides the form of the assessment book which must be used. Section 2545 requires that the assessor must complete his assessment book on or before the second Monday of July of each year, and Section 2547 *idem*, provides that the assessment book as soon as completed, must be delivered to the county clerk, while Section 2549 provides a penalty for failure to complete the assessment book within the time provided for by law. Unless especially strong reasons appear, the failure of the assessor to comply with the mandates of the law is mere quibble.

State ex rel City of Butte vs. Weston, 29 Mont. 125.

Toole county was created May 7th, 1914, and it is easily understood that in the creation of a new county, more or less confusion ensues. In the instant case, it appears that the county assessor has not had the benefit of the full time allotted to assessors in established counties, within which to perform his duties. The failure, therefore, to complete the assessment book, as required by law, is perhaps unavoidable. The board of county commissioners meet as a board of equalization on the third Monday of July of each year, and continue in session from time to time until the business of equalization is disposed of, but may not remain in session for this purpose later than the second Monday in August in each year (Sec. 2752, *idem*). During the session of the board, the assessor must be present and make any statement or introduce and examine witnesses on questions before the Board (Sec. 2577, *idem*.)

I am of the opinion that the Board of Equalization may proceed with its duties and in lieu of the assessment book, make use of the original files and records of the county assessor, but the assessor should proceed with all possible dispatch to complete the assessment book and deliver the same to the county clerk prior to the second Monday in August, when the board must adjourn.

Yours very truly,

D. M. KELLY,
Attorney General.