

Election, Petition For, to Furnish Supplies to Needy Farmers—Drouth, Election to Help Farmers on Account of—Relief to Farmers, Validity of Election.

Where the petition for an election to submit the question of furnishing supplies to farmers specifies that the relief is to farmers only, such an election is not invalid.

March 26, 1920.

Hon. G. C. Perkins,
Chairman Board County Commissioners,
Harlowton, Montana.

Dear Sir:

You have submitted to me a transcript of the proceedings of the Board of County Commissioners of Wheatland County in connection with the special election held in Wheatland County on February 17th, 1920, at which election there was submitted to the electors of said county the question of whether or not Wheatland County should become indebted to the amount of \$200,000, for the purpose of purchasing and furnishing seed grain, feed, provisions, and other supplies, to the inhabitants of such county, and have requested my opinion regarding the legality of such election and the validity of any warrants which may be issued by Wheatland County thereunder.

This transcript of proceedings shows that a petition was filed with the county clerk of such county on January 21st, 1920, asking that the board of county commissioners of such county "purchase seed grain,

feed, provisions and other necessary supplies of such kind and in such quantities and of such quality as in your judgment may be necessary, and to furnish and supply such seed grain, feed, provisions and other necessary supplies to the inhabitants of said county who are engaged in the occupation of farming and who are financially unable to procure said seed, feed, provisions and other necessary supplies during the ensuing season and thus enable them to plant and sow crops the ensuing season."

This transcript further shows that a special meeting was held by the board of county commissioners to consider such petition, at which meeting all of the members of the board were present, and that at such meeting a resolution was adopted granting such petition, calling a special election, fixing the date for holding the same and providing for notice thereof, etc., and containing an estimate of the quantities of seed grain, feed, provisions, etc., required, and that in said resolution the question to be submitted, and which was contained in the notice of election, and printed on the ballots used at such election, was stated as follows:

"Whether the Board of County Commissioners of Wheatland County, Montana, shall incur an indebtedness to the amount of Two Hundred Thousand dollars (\$200,000.) for the purpose of purchasing seed grain, feed, provisions and other supplies to be furnished and supplied by the County to inhabitants of the County who are engaged in the occupation of farming and who are financially unable to procure such seed grain, feed, provisions and other necessary supplies, and who require such seed grain, feed, and other necessary supplies, in order to enable them to plant and sow crops at the next ensuing planting season."

This transcript further shows that such election was duly held and that a majority of the electors voting at such special election voted in favor of incurring such indebtedness for such purpose, and that at a meeting of the board held on February 21st, 1920, all members being present a resolution was adopted providing for the issuance of warrants of said county not exceeding \$200,000. for the purpose of purchasing and furnishing such seed grain, feed, provisions and other supplies to the inhabitants of the county.

There is but one question necessary to be considered, and that is whether or not placing in the petition, resolution and question submitted the words "who are engaged in the occupation of farming and who are financially unable to procure such seed grain, provisions and other necessary supplies and who require such grain, provisions and other necessary supplies in order to enable them to plant and sow crops at the next ensuing planting season," thus limiting the granting of such relief to one particular class, renders such election illegal and invalidates any warrants which may be issued.

In 1917 there was a partial failure of crops, total in many instances, over a large part of the state, with the result that a very large number of farmers, while having feed for the livestock required for carrying

on farming operation and being able to procure provisions and other necessities for the support of their families, were financially unable to procure seed grain, and unless financial assistance should be rendered them, they would be unable to procure seed grain or plant any crops during the ensuing year. Knowing of the existence of these conditions, and that the old seed grain law, while sustained in principle, (State ex rel. Cryderman v. Weinrich, 54 Mont. 390, 170 Pac. 942) was so deficient that proper relief could not be rendered thereunder, the Extraordinary session of the Fifteenth Legislative Assembly, which convened on February 14th, 1918, passed a new seed grain law, (Chap. 19, Extra. Sess. Laws 1918), which provides a method whereby, in case of a total or partial failure of crops by reason of drought, hail or other misfortune, a county may purchase and furnish seed grain to its inhabitants who are engaged in the occupation of farming, and who are financially unable to procure the same, and who require the same in order to enable them to plant and sow crops. It will be noticed that throughout this act the words used are "total or partial failure of crops by reason of drought, hail, or other misfortune," and "to the inhabitants of such county who are engaged in the occupation of farming."

In the following year, 1918, there was also an almost total failure of crops throughout the whole state, with the result that a very large number of farmers were not only unable to procure seed grain without financial assistance, but were also without feed for their livestock required in carrying on farming operations, and without means to procure even provisions for the support of their families, and when the Extraordinary Session of the Sixteenth Legislative Assembly convened on July 29th, 1919, it was apparent that the crops of that year, making the third successive year, would be a total failure throughout a very large part of the state, and that unless some provision was made whereby these farmers might be assisted not only by supplying them with seed grain, but also with feed for their livestock and with provisions and other necessary supplies for the support of their families, many of them would not only be rendered destitute and become county charges, but farming operations would be greatly retarded, and the production of foodstuffs would be largely curtailed. Knowing of the existence of these conditions this extraordinary session enacted Chap. 8, Sess. Laws, Extra. Sess. 1919, for the purpose of providing a method whereby counties might not only furnish seed grain to such farmers, but also furnish them feed for their necessary livestock and provisions and necessities for the support of their families until such time as they would be able to plant and harvest a crop.

While Chap. 8, Extra. Sess. Laws 1919, does not use the words "who are engaged in the occupation of farming" as the same are found in Chap. 19, Extra. Sess. Laws 1918, yet said Chap. 8 does contain the words, "who, by reason of drought, hail or other unfavorable climatic conditions, have been rendered financially unable to procure the same," (that is seed grain, feed, provisions and other necessary supplies), and clearly but one class of the inhabitants of a county could be so rendered financially unable, that class being those engaged in the occupation of farming. It would appear, therefore, that it was the intention of the

legislature that the provisions of said Chapter 8, Extra. Sess. Laws 1919, was to apply to but one class, and that class being the same class to which the provisions of Chap. 19, Extra. Sess. Laws 1918, applies, namely, "those engaged in the occupation of farming."

Again it is hard to imagine what persons, other than "those engaged in the occupation of farming" could be, "by drouth, hail, or other unfavaroable climatic conditions," rendered financially unable to procure seed grain, feed, provisions and other necessary supplies. Persons, other than "those engaged in the occupation of farming," might become poor or needy, or in aid of assistance from a county which might be caused by various circumstances, but unless "engaged in the occupation of farming," they could hardly have become so poor, needy, or in aid of assistance," by reason of drouth, hail, or unfavorable climatic conditions, as to require seed grain, feed, provisions and other necessary supplies to be furnished them.

Again there was no necessity for the legislature to enact any law authorizing a county to incur an indebtedness for the purpose of supplying provisions and other supplies to all of the inhabitants of a county, regardless of occupation or business, who might be poor or needy, as the board of county commissioners possess ample power under the general laws to furnish all such poor and needy with provisions and other supplies as may be necessary, and there is no restriction on the amount of indebtedness which a county may incur for such purpose, other than the constitutional limitation of general county indebtedness.

There can be no question but what Chap. 19, Extra. Sess. Laws 1918, was enacted by the legislature, in view of the conditions then existing, for the sole purpose of providing a method whereby relief might be afforded to a particular class, "those engaged in the occupation of farming," and who "by reason of drouth, hail or other misfortune," were financially unable to procure seed grain, by furnishing them seed grain in order that they might sow and raise crops, and, in my opinion, Chap. 8, Extra. Sess. Laws 1919, was enacted by the Legislature in view of the conditions which had existed in 1917, and which had become much worse in 1918 and 1919, with the intention and for the sole purpose of providing a method whereby additional relief might be granted to the same class mentioned in Chap. 19, Extra. Sess. Laws 1918, and which additional relief could not be given under said Chap. 19, and that the two acts are intended to provide a method for affording relief to but one class of inhabitants of a county, "those engaged in the occupation of farming" and who require such relief "by reason of drouth, hail or other misfortune" in order to enable them to remain on their farms, feed their livestock, provide a living for their families, and sow and raise crops. That this was the intention of the legislature I do not believe there can be any doubt, and the intention of the legislature when ascertained becomes the law.

If I am correct in the foregoing conclusions then the board of county commissioners cannot under the provisions of said Chap. 8, Extra. Sess. Laws 1919, incur any indebtedness by furnishing seed grain, feed, provisions or other necessary supplies to any person except one "engaged in the occupation of farming," but are restricted to the furnishing thereof

to those belonging to that class, having the power, however, to furnish provisions and necessary supplies to the poor of any other class under the general laws providing for the support of the county poor, and which must be paid for out of the general poor fund.

The foregoing being my interpretation of the provisions of Chap. 8, Extra. Sess. Laws 1919, the words "who are engaged in the occupation of farming," etc., were surplusage and amounted to nothing.

I am, therefore, of the opinion that such election authorizing the incurring of such indebtedness was a legal election, and that the board of county commissioners may lawfully incur an indebtedness, not exceeding \$200,000, by purchasing seed grain, feed, provisions and other necessary supplies and furnishing the same to those inhabitants of Wheatland County "who are engaged in the occupation of farming," (and to no others) and who "by reason of drouth, hail, or other unfavorable climatic conditions have been rendered financially unable to procure the same", and who require the same in order to preserve their livestock required to carry on their farming operations, provide a living for their families, and to sow crops upon their lands, and that all warrants which may be issued by such boards of county commissioners for such purpose will be valid in all respects.

Respectfully,

S. C. FORD,

Attorney General.