

Irrigation Districts — Not Within Eight-Hour Day Statute.

Section 1739 of the Revised Codes of 1907 construed as not applicable to irrigation districts.

Chas. D. Greenfield, Esq.,
Chief of Division of Labor and Publicity,
Helena, Montana.

My dear Mr. Greenfield:

You have inquired whether an irrigation district organized under the laws of the State of Montana comes within the meaning of Section 1739, Revised Codes of 1907, fixing eight hours as a day's work on certain public works.

Section 1739, above, was amended by Chapter 30 of the Laws of 1917, and now reads as follows:

"A period of eight (8) hours shall constitute a day's work on all works or undertakings carried on or aided by any municipal, county or state government, school districts of the first class, and on all contracts let by them, and for all janitors, engineers, firemen, caretakers, custodians and laborers employed in or about any buildings, works or grounds used or occupied for any purpose by any municipal, county or state government, school districts of the first class, and in mills and smelters for the treatment of ores, and in underground mines, and in the washing, reducing or treatment of coal."

While an irrigation district as organized under the Montana law is a public corporation, the use of the word "government" in the above section, in the phrase "municipal, county, or state government," indicates that the legislators had in mind the State government and its principal subdivisions, the county and the city. This view is supported by the fact that specific mention is made of school districts of the first class, an institution of government outside of city, county, and state government as such, yet no mention is made of irrigation districts.

In *Hersey v. Neilson*, 47 Mont. 132, the Supreme Court said:

"We think it very clear that only incorporated cities and towns are municipal corporations in this State."

In the case of *Turlock Irr. Dist. v. White*, 198 Pac. 1060, it was held that an irrigation district was not a "municipal corporation" within the meaning of a constitutional provision excepting from exemption from taxation certain property belonging to "municipal corporations."

It is, therefore, my opinion that the section above quoted has no application to irrigation districts.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.