

Road Districts—Dissolution.

Section 1674 R. C. M. 1921 does not apply to the dissolution of a special road district organized under section 1655 R. C. M. 1921 but only where the county has been divided into special road districts.

March 16, 1928.

P. R. Heily, Esq.,
County Attorney,
Columbus, Montana.

My dear Mr. Heily:

Your letter was received relative to the abolishing or discontinuing of special road districts. You have requested my opinion on section 1674 R. C. M. 1921 and wish to know whether this section applies where the county is not divided into special road districts.

In my opinion, it does not. Section 1674 provides that "whenever any county has been divided into special road districts as herein provided." If we examine this section it is apparent that it has no application where the county has not been divided into special road districts, as provided in sections 1653 and 1654 R. C. M. 1921.

Section 1655 provides, if the county is not divided into special road districts, as provided in sections 1654 and 1655 of this code, the registered voters of any precinct or precincts in any county in the state who desire to establish a special road district under this act may do so by first filing with the board of county commissioners a petition, etc.

Regarding the time of holding an election for the abolishing of special road districts, section 1664 R. C. M. 1921 provides that the regular election for the election of members of the board of directors shall be held in such district at the same time as the regular general election. This section, before its amendment, provided that the regular election for the election of members of the board of directors shall be held at the same time and in the same place as provided for the election of school trustees, and the opinion of attorney general Ford, found in vol. 7 of the Opinions of Attorney General, page 209, held this provision in conflict with article XI, section 10 of the constitution, and the section was subsequently amended to read as it now does, although other sections of the special road district act were not changed.

For instance, section 1674 provides that the petition be filed with the board at least thirty days before any regular school election; this provision has no meaning in view of the amendment referred to.

Very truly yours,

L. A. FOOT,
Attorney General.