

## Opinion No. 13-1041

May 14, 1913

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. A. W. Hockenhull, Clovis, N. M.

### TAXATION OF SHEEP.

Sheep should be assessed in the county where they are found on the first day of January.

### OPINION

{\*206} I have just received your letter of the thirteenth instant relative to the taxation of sheep brought into your county in January for feeding for the market, the sheep coming from Eddy county. As they were in your county on the first of March your assessor has assessed them and the owners object to paying taxes in your county and threaten to bring no more for feeding if they are taxed.

In other words, it would appear that they desire by moving their sheep from Eddy county to escape having them assessed there and avoid assessment anywhere in New Mexico. I do not believe this can be tolerated. Under the last law assessments are to be made of property "as it exists on the first day of January in each year," and as it took effect immediately upon its approval, and there is no saving clause in it as to the assessment of this year, although that assessment had already begun, it would seem that property should be assessed in this year as it existed on the first of last January. At that time from what you write it appears that the sheep were in Eddy county, and they ought to be assessed there, and if the owners do not return them for assessment in that county, they may have some serious trouble.

Your reference to the condition of the law as to where sheep are to be assessed recalls the fact that the statutes are somewhat involved and require careful examination. You mention the fact that Section 25 of Chapter 22 of the Laws of 1899 was repealed by Chapter 100 of the Laws of 1905. That section 25 required all property to be listed for taxation in the county in which it was situated, but I think you intended to refer to Section 32 of the act as that is the one which was repealed by Chapter 100 of the Laws of 1905. Section 32 provided that sheep should be listed and assessed in the county wherein the owner resided, and when it was repealed in 1905 my first impression was, and it continued with me for some time, that we were left without any provision on this subject except that to be found in the general {\*207} provision of Section 4027 of the Compiled Laws, which provides that all personal property shall be listed in the county where the owner resides. Section 25, however, to which you refer, continued still in force and made all property returnable in the county where it was situated. The whole of Chapter 22 of the Laws of 1899 is repealed by the last law, which is Chapter 84 of the

Laws of 1913, and Section 7 of that act provides that all property, both real and personal, shall be assessed in the county where it is situate on the first day of January of the current year.

It seems clear, therefore, that the sheep about which you write should not be assessed in your county, because they were not there on the first day of January.

I call your attention to the fact, however, that Sections 4055 and 4056 which provide for the assessment of property previously omitted or of after-discovered property, are still in force, and the sheep in question certainly ought to be assessed somewhere in New Mexico.