

## Opinion No. 14-1399

December 16, 1914

**BY:** IRA L. GRIMSHAW, Assistant Attorney General

**TO:** Hon. Fred B. Heyn, and Assessors and County Commissioners in joint convention assembled, Senate Chamber, Capitol Building, Santa Fe, New Mexico.

### **TAXATION.**

Duties of assessors and county commissioners in regard to taxation in view of amendment to Article VIII of the Constitution.

### **OPINION**

{\*259} This office is in receipt of your communication asking for advice concerning various questions submitted to us for consideration.

The first question asked, in effect, is what course you should pursue in the listing, assessing and taxing of corporate property in view of the amendment to Article VIII of the Constitution of New Mexico.

As soon as the amendment becomes effective, which is immediately after the State Canvassing Board has certified to the result of the election upon the constitutional amendments, the State Board of Equalization becomes dissolved and all laws in reference to the State Board of Equalization become inoperative. Therefore, it becomes the duty of every inhabitant of the State of New Mexico to make a list of property subject to taxation of which he is the owner or has control or management, and to return it to the respective county assessors. Thereupon, the county assessors fix the valuation of the property contained within said lists at one-third of the actual cash value thereof, in accordance with the standards of valuation of the different classes of property as previously fixed by the respective boards of county commissioners. As Chapter 81 committed the ascertainment of the true value of property belonging to railroad, express, sleeping car, telegraph, telephone and other transportation and transmission lines, together with national and state banks, trust companies, range cattle, horses, sheep, goats and other live stock, to the State Board of Equalization and by the same chapter authorized the boards of county commissioners to ascertain the true value of all classes of property other than the property committed to the State Board of Equalization, it follows that the boards of county commissioners have no authority to ascertain the true value of property belonging to the classes of corporations named, {\*260} together with national and state banks, trust companies, range cattle, horses, sheep and goats, and other live stock.

At first glance, this would indicate that the different classes of corporate property named, together with live stock, would not be subject to assessment this taxing year

because of lack of machinery wherewith to tax the same, but this impression is overcome when due consideration is given to Section 5 of Chapter 81 of the Laws of 1913. It is there provided that all property, the valuation of which has not been specifically fixed by the State Board of Equalization or the boards of county commissioners, shall be **assessed** by the assessor at the same proportion and uniform valuation as fixed by the boards upon other property. In our judgment, this authorizes the county assessors to make an original assessment upon the property heretofore committed to the State Board of Equalization. Therefore, in our opinion, the assessors are authorized by law to originally assess property belonging to railroads, express, sleeping car, telegraph, telephone and other transportation and transmission companies, together with national and state banks, trust companies, range cattle, horses, sheep, goats and other live stock.

Your second question presupposes some action on the part of the legislature in enacting legislation to cover the assessment and taxation of the property heretofore committed to the State Board of Equalization, and you ask whether it would be safe to list such property for taxation, leaving in blank the valuations to be placed on that property until after the legislature has legislated upon the matter, or whether you should fix the values now and adopt as standards of valuation the values previously fixed by the State Board of Equalization.

If the State Canvassing Board certifies that the constitutional amendments have been carried and this certification is made prior to the second Monday in January, the date fixed for the meeting of the State Board of Equalization, then, as we have heretofore indicated, the duty of assessing this class of property falls upon the assessor. We are of the opinion that the assessors would not be justified in failing to assess this property and placing it upon the tax rolls upon a valuation equal to that of other property subject to taxation. Therefore, we believe that the assessments of this class of property should be placed upon the rolls in the same manner as other classes of property, and that no blanks should appear in the valuations of the assessments. You would not be justified in omitting the assessment on the ground that you contemplate some action by the legislature whereby the assessment and taxation of this class of property would be committed to some other tribunal. Again, you could not make a legal assessment of corporate property unless you fixed a valuation thereon, so it becomes decidedly necessary to fix the value of this class of property, and place it upon the tax rolls.

The third question propounded is whether or not Section 3 of Article VIII, as amended, exempts from taxation town and community grants in this state. The literal reading of the constitutional amendment answers this question. Unlike some other constitutional {261} provisions, this provision does not restrict the exemption to the use of the property, but permits the exemption of all property owner by certain parties. Those parties are the United States, the state, the counties, towns, cities and school districts and any property owned by them is, of course, exempt from taxation. If the town and community grants to which you refer are owned by the state, counties, towns, cities or school districts, you are not authorized to levy a tax upon such property.