

Opinion No. 37-1531

February 17, 1937

BY: FRANK H. PATTON, Attorney General

TO: Dr. M. D. Gibbs Member of Legislature Harding and Union Counties Santa Fe, New Mexico

{*51} Your letter of February 16th, relative to new county to be created by legislative enactment consisting of all territory now included in Harding County and certain portions of San Miguel County, has been received and considered.

I have studied the case of State ex rel. Dow et. al. vs. Graham et al., 33 N.M. 504, 270 P. 897, and upon authority of said case I am of the opinion that your contemplated plan would amount to the enactment of a local or a special law, which is prohibited by the Constitution of the State.

This inhibition is set forth in Section 24, Article IV of the Constitution and provides that "The legislature shall not pass local or special laws . . . changing county lines except in creating new counties . . ."

In the case mentioned by you Harding County would be abolished and county lines would be changed and under the argument advanced in the case cited apparently no **new county** would be created.

The result in your proposition would be the same as that in State vs. Graham, supra, and, like the court in that case, we cannot escape the conclusion that such result is to change the county lines and not the creation of a new county.