

Opinion No. 41-3863

August 12, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Fred J. Federici District Attorney Raton, New Mexico

{*87} I have your letter of August 6 wherein you refer to Section 33-4203, New Mexico Statutes Annotated, 1929 Compilation, as amended by Chapter 194 of the Laws of 1941, and in connection therewith you propound the following three questions, to-wit:

- "1. May a County be redistricted as to Commissioner's Districts?
2. If so, within whom does such a power repose?
3. If a County may be so re-districted what procedure is to be followed?"

Your questions will be answered in the same numerical order as propounded.

Section 33-4203, as amended by Chapter 194, Laws of 1941, provides in substance for a division of each county into three compact districts "as equal in proportion to population as possible" by the first board of county commissioners and, further, that the districts so created "shall not be subject to alteration oftener than once in two years".

In view of the quoted provisions of the above statute, I conclude that your first question should be answered in the affirmative if, in the discretion of the board of county commissioners, such a redistricting is, under the law, necessary and justifiable and another redistricting has not been made within two years last passed.

As to your second question. it naturally follows, in view of the foregoing, that the power to redistrict is fixed in the board of county commissioners.

As to your third question, I am of the opinion that a proper map and record of the change should be made and filed with the County Clerk of the county. The law as to the procedure to be followed does not seem to be very clear and I would suggest that the present board of county commissioners follow whatever procedure has been used within the county in the past.

Trusting that the foregoing sufficiently answers your inquiry, I am

By HOWARD F. HOUK,

Asst. Atty. General