

Opinion No. 17-1930

February 7, 1917

BY: HARRY L. PATTON, Attorney General

TO: Hon. J. S. Lea, Senator from Chaves County,.

Validity of a Bill for the Creation of De Baca County.

OPINION

Pursuant to your request I am expressing my views as to the constitutionality of Section 18 of Senate Substitute for House Bill No. 37. The bill, among other things, provides for the creation of the County of de Baca and for the readjustment of the exterior boundaries of Roosevelt County. The proposed county is created from territory taken from Chaves, Guadalupe and Roosevelt Counties. Section 1. of the bill defines the boundaries of the proposed county. The southeast corner of the proposed county, as set forth by said boundaries, is the southwest corner of Curry County, which is the southeast corner of Section 13, Township 1, North of Range 30 East.

Section 18 of the bill takes away from Chaves County some seventeen townships and adds the same to Roosevelt County on the south. The nearest point of this added territory to the proposed county is the southwest corner of Township 4, South of Range 30 East, and the nearest point of the proposed county to this added territory is the southwest corner of Curry County above referred to. It may be seen that the area embraced in the proposed county and the added strip are not contiguous but on the contrary that several miles intervene.

Article IV, Section 24, of the Constitution of New Mexico provides that the legislature shall not pass local or special laws in "locating or changing county seats, or changing county lines, except in creating new counties." Your question involves the interpretation and construction of these words. In the interpretation of statutes words in common use are to be construed in their natural, plain and ordinary signification. It is a very settled rule that so long as the language used is clear and unambiguous, a departure from its natural meaning is not justified by any consideration of its consequences or public policy; and it is the plain duty of courts to give it force and effect. The established rules of construction applicable to statutes also apply to the construction of constitutions. The language of the constitution is clear, plain and free from ambiguity to the effect that county lines may not be changed except in creating new counties. The south line of Roosevelt County and the north line of Chaves County are changed by this section of the bill. The territory embraced in the change is not a part of the new county. The boundaries of the new county are not affected by Section 18. The change of county lines proposed in Section 18 is not a change of lines in the creation of de Baca County. The change of lines proposed in Section 18 of the bill is not necessary or indispensable

in the creation of de Baca County. In my opinion said section violates the provisions of the section of the constitution referred to.

It has been suggested that this section of the bill is essential since it compensates Roosevelt County for a territory which it has lost by reason of the creation of de Baca County. If this theory is correct the bill might go still further and compensate Chaves County for territory which it has lost by adding territory on its south or west boundary, and other counties affected might be so compensated, and so on indefinitely.

It has been further suggested that Article IV, Section 16 of the Constitution has been violated because the bill embraces more than one subject. There is doubtless some ground for contending that the subject expressed in Section 18 is foreign to the other subject of the bill, but in view of my pronounced convictions as to the constitutional feature referred to, I deem it unnecessary to more than refer to this question.