

Board of County Commissioners—Selection of Chairman.

The Board of County Commissioners have the right to select a new chairman at any time a majority of the Board so decide.

Baxter Pierce, Esq.,
County Commissioner Powder River County,
Ashland, Montana.

My dear Mr. Pierce:

I am in receipt of your letter of April 11th inquiring in what way the chairman of the Board of County Commissioners might be removed as Chairman and another member selected in his stead.

Section 2885 of the Revised Codes of 1907 provides:

"The board of county commissioners must elect one of its members chairman. The chairman must preside at all meetings of the board, and in case of his absence or inability to act, the members present must, by an order, select one of their number to act as chairman temporarily. Any member of the board may administer oaths to any persons concerning any matter submitted to them or connected with their powers or duties."

It is to be noted that this section does not provide for any term of service of the chairman of the Board of County Commissioners, or for making any change in the chairmanship.

The matter of determination of the chairmanship of a Board of County Commissioners has never been decided by our Supreme Court, but a similar question arose in the matter of determination of the chairmanship of the Board of Railroad Commissioners, decided in *State ex rel. Boyle v. Hall*, 53 Mont. 595. In this case, Section 4367 of the Revised Codes of 1907 was under consideration, which section provides that the Board of Railroad Commissioners should "organize by electing one of its members as chairman." In pursuance of that provision a chairman of the Board of Railroad Commissioners was elected on January 1, 1917, and served until April 16th of the same year, when by a majority vote of the Board, another member was elected chairman. In determining who was entitled to the chairmanship of the Board, our Supreme Court, in the case above cited, held as follows:

"The legislature recognized further that the chairman would be selected by the members only because of their confidence in him; that the harmony and efficiency of the board would continue only so long as that confidence continued; and that whenever for any cause, or without cause, the chairman forfeits or otherwise loses that confidence upon the strength of which he was selected, the majority would have the authority to remove and select a successor.

It is my opinion that the question you raise is practically identical with that decided by our Supreme Court in the above case, and that the chairmanship of the Board of County Commissioners may be changed at any legal meeting by the selection, by a majority of the Board, of another member as his successor.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.