

### Licenses, Retail Liquor Dealers.

The provisions of Chapter 71, Laws of 1905, do not apply to cities, town, villages or camps containing a population of more than one hundred, whether incorporated or not. . Town, city or camp defined.

Helena, Montana, Feb. 28th, 1906,

C. B. Calkins, Esq., County Attorney, Hamilton, Montana.

Dear Sir:—We are in receipt of your favor of the 15th inst., in which you ask opinion as to whether it is necessary for one desiring to retail liquors in an unincorporated town of more than one hundred population, to secure a petition and present the same to the board of county commissioners before a license can be issued by the treasurer as required by the provisions of Chapter 71, Laws of 1905, page 154.

The provisions of said law do not apply to cities, towns, villages, or camps, containing a population of one hundred or more, whether incorporated or not. The question as to the number of inhabitants is sometimes difficult to determine and is purely one of fact, as is also, the proper boundaries of any such unincorporated town, city, etc. If the treasurer, in the exercise of his judgment and discretion, be not fully satisfied that any town, city village or camp in the county contains a population of one hundred or more, he is justified in refusing to grant such license, and the question of fact as to the number of inhabitants of any such town, etc., may be presented to, heard and determined by the board of county commissioners. In cases where it is shown by satisfactory evidence that such town, etc., contains one hundred or more inhabitants, compliance with said Chapter 71 is unnecessary.

As to what constitutes a town, city, or camp, and persons to be enumerated in determining the population thereof, we give you the following as our opinion:

A town, city or camp, etc., under said law, consists of a collection of habitations or places of abode inhabited, whether temporary or permanent, as distinguished from isolated places of residence, whether adjacent to such town, etc., or elsewhere. The town must be determined by the collectiveness of such habitations and the contiguous character thereof, and the enumeration is to be made of the people actually residing in such collective places of abode. And whether a given habitation should be enumerated in computing the population of a town, etc., is purely a question of fact to be determined from the evidence.

ALBERT J. GALEN,

Attorney General.