

Freeholder, Who Is. Township, What Is. Liquor License,
Petition For. Petition, For Liquor License, Who May Sign.
Homesteader, When a freeholder.

A homesteader prior to the time of completing his required residence upon his claim is not a freeholder within the meaning of Chapter 92, Laws of 1911.

A township within the meaning of Chap. 92, Laws of 1911,

is a political sub-division and not a surveyor's subdivision of a county.

Under the provisions of Chap. 92, Laws of 1911, a petition for the issuance of a retail liquor dealer's license must be signed by freeholders within the particular political subdivision of the county in which the applicant proposes to engage in business.

December 19th, 1911.

Mr. Chas. A. Taylor,
County Attorney,
Billings, Montana.

Dear Sir:

I am in receipt of your letter of the 16th inst., in which you request my official opinion as to the meaning of the words "free-holder" and "township" as used and contemplated by Chapter 92, Laws of 1911, being the act relating to the issuance of a retail liquor license. You state in your letter that you have held that settlers under the Huntley Irrigation projects who have filed upon homesteads and are required by the Government to complete a five years residence on their lands before making final proof and receiving patents are freeholders within the meaning of this act.

By the provisions of Sec. 4485, Rev. Codes,

"Estates of inheritance and for life are called estates of freehold."

It is my opinion that a homesteader prior to the time of completing the required residence upon his claim, if he owns no other real estate in fee, is not a freeholder within the meaning of this act, but where such homesteader has complied with the law and has done everything entitling him to a patent and has received his receiver's final receipt so that nothing remains to be done by him towards the issuance of a patent by the government, he is then a freeholder within the meaning of this act. See also 32 Cyc §33.

With reference to what is a "township" within the meaning of this chapter I would call your attention to the definition of a township as given by our Supreme Court:

"A township is a subdivision of a county."

State vs. Cronin, 41 Mont. 293.

Section 2894, Sub-division 2, Rev. Codes, contemplates that the board of county commissioners shall divide the county into at least two townships and I cannot conceive of a portion of a county not being included within a township created by the county commissioners, and it is my opinion that the township referred to in Chapter 92, Laws of 1911, means the political township as thus established by the board of county commissioners and not the surveyors subdivision.

This question was heretofore passed upon by this office in an opinion rendered to the board of county commissioners of Lewis & Clark county, on April 21, 1905. This in construing Chapter 71, Laws of 1905, and the language used by the legislature in Chapter 92, Laws

of 1911, is identical with the act of 1905 and the word township in the recent act, in my opinion, has the same meaning as the word used in the act of 1905. See Vol. 1, Opinions Attorney General, page 92.

Yours very truly,

ALBERT J. GALEN,

Attorney General.