

County Seat, Candidates For. Unincorporated Towns and Villages, Right to Become Candidate In. New Counties, County Seat Of.

Under the provisions of the law as it now exists, an unincorporated town or village cannot properly become a candidate for the location of the county seat of a new county.

May 25, 1912.

Hon. John Hurly,
County Attorney,
Glasgow, Montana.

Dear Sir:

I am in receipt of your letter of the 16th inst., submitting the question:

"May an unincorporated town or village properly be a candidate for location of the county seat in the creation of a new county?"

Section 3, Chapter 112, Session Laws of 1911, in dealing with this subject makes frequent reference to cities and towns but studiously avoids all reference to villages, camps, or locations or places, except as the word "places" is used in connection with "cities or towns." The Act itself does not attempt to define either a city or town, but Sec. 3206 of the revised Codes does define both cities and towns and with reference to towns the section reads:

"Every municipal corporation having a population of three hundred and less than one thousand is a town."

It must be incorporated otherwise it is merely a village or camp having no entity except as a part of the county.

It is a general and almost universal rule of construction that:

"All statutes are presumed to be enacted by the Legislature with full knowledge of the existing condition of the law and with reference to it."

It is also a general rule of construction that:

"The meaning of doubtful words in one statute may be determined by reference to another in which the same words have been used in a more obvious sense."

36 Stat. 1146-1147.

State ex rel Case, v. Wilson, 151 Mo. App. 723; 132 S. W. 625.

State ex rel L. v. State Bd. Com'rs. Ind. 94 N. E. 716.

State v. Southern R. Co., 145 N. Car. 495; 59 S. E. 570.

13 L. R. A. N. S. 966.

44 Cent. Dig. tit. "Statutes" Sec. 302.

Under these rules of construction it would appear that only incorporated cities or towns were contemplated by this Chapter 112, hence that an unincorporated village or camp can properly have no place upon the ballot.

I have endeavored to find some rule of law under which the county authorities might legally place upon the ballot the name of any locality, village or camp, which the electors desired to vote for as the county seat, but where the Legislature uses the words "cities or towns" without any attempted interpretation of words, we are forced to the conclusion that the definition of such places as given in the general law was intended to prevail.

I am, therefore, forced to the conclusion that none but an incorporated city or town has any place upon the ballot.

Yours very truly,

ALBERT J. GALEN,

Attorney General.