

**Musselshell County, Location of Permanent County Seat.  
County Seat, Location Of.**

It is the duty of the board of county commissioners to submit the question of the location of the permanent county seat of Musselshell county under the provisions of the general law, rather than the special provisions contained in the law creating the county.

Oct. 4th, 1912.

Desmond J. O'Neill,  
County Attorney,  
Roundup, Montana.

Dear Sir:

I acknowledge receipt of your favor of the 2nd inst., making enquiry respecting the duty of the board of county commissioners to submit the question of the location of a permanent county seat of Musselshell County to the electors at the coming election.

You are correct in your direction to the board that it is not its duty, under the provisions of Sec. 3 of Chap. 25, Laws of 1911, to submit the question of the location of a permanent county seat for a vote of the electors, such a provision having been held by our supreme court to be special legislation and, therefore, unconstitutional.

State ex rel. Geiger v. Long, 43 Mont. 415.

However, as stated in the opinion in said case, this is a subject which should properly be regulated by general rather than special laws under our constitutional provisions. The twelfth legislative assembly having enacted a general law upon this subject, which appears as Chap. 135, Laws of 1911, I am of the opinion that under the provisions of this general law the question should be submitted to the electors at the coming election, as therein provided.

You will note that by Sec. 2 of said Chap. 135, it is made the duty of the board of county commissioners and county clerk at the general election after the creation of the county, to have separate official ballots printed and distributed for the use of the electors at such election, the form of such ballot being in accordance with the provisions of Sec. 8 of said act.

Accordingly, you are advised that while it would not be proper to submit the question under the provisions of the law creating the county of Musselshell, yet the question should be submitted to the electors at the coming election, in accordance with the general law upon the subject.

Your enquiry concerning the difficulties arising in connection with the tax levy for School District No. 6, will receive my attention and you will be given reply later.

Yours very truly,

ALBERT J. GALEN,

Attorney General.