

County Seat, Location Of. Voting For. School District Trustees, Taxes Levied By. Tax Levy, by School District Trustees. Levy of Taxes, Time Of.

Manner of voting for a county seat heretofore decided.

School District Trustees should make levy and report the same as required by Sec. 995, Revised Codes, but a slight delay therein will not vitiate the tax.

October 9, 1912.

Hon. Desmond J. O'Neil,  
County Attorney,  
Roundup Montana.

Dear Sir:

A few days ago I received your letter dated October 2nd, 1912, submitting for the consideration of this department two separate questions, to-wit:

1. Shall the proposition of the voting for the county seat of Mussellshell county be placed upon the ballot?
2. May the board of school district trustees now at this date certify to the county commissioners the taxes levied by the district for the ensuing year?

The first of these propositions was answered in a letter addressed to you on October 4th. The second proposition was not then considered.

Sec. 995 of the Revised Codes requires the tax levy by the district to be certified to the board of county commissioners on or before the day designated by law for the commissioners to levy the requisite taxes for the ensuing year. And Sec. 2598, Revised Codes, requires the board of county commissioners to fix the rate of county taxes, etc., on the second Monday in August in each year. It was, therefore, the duty of the various school boards to certify to the board of county commissioners their tax levy on or before the second Monday in August. There is no duty resting upon the county official to notify the school board when it should send in its levy. This office had occasion heretofore in a letter addressed to the Honorable C. L. Crum, County Attorney, Rosebud County, to consider a similar question and we there held that slight delay on the part of school boards would not prevent the county board from making the levy, but in that case there was only a delay of a couple of weeks, and in this case there is a delay of at least six weeks. The books have now all been made up and it is doubtful whether the district may now be able to have its tax levy carried forward on the books. It would perhaps not vitiate the tax if it were done even at this time, but the duplicate assessment book has already been delivered to the county treasurer under the provisions of Sec. 2609. The provisions of Sec. 995 as to the time when this levy must be certified to the county board are probably directory but in order to place the tax upon the books at this date it would be necessary to withdraw the books from the treasurer and in effect to make them over. Such proceedings would be irregular although I know of no provision of law positively forbidding it. It is, therefore, more of a business proposition as to whether the work can be done in the time required by law than a legal proposition. I cannot recommend that the books be interfered with at this late date, nor can I say that the law prohibits it.

I enclose herewith copy of the opinion addressed to Hon. C. L.

Crum which discusses more fully the question involved. I also return to you the letter addressed to you by Mr. F. K. Carothers.

Yours very truly,

ALBERT J. GALEN,

Attorney General.