

**Direct Primary Law, Petitions for Nomination. Nominating
Petition, Under Direct Primary Law.**

In counties which have been reduced in size by county division, and which therefore contain fewer precincts than formerly, the number of precincts from which signers are obtained upon nominating petitions must be taken and the statutory proportion of the number in the county or district at the date when the petition is circulated.

June 30, 1914.

Hon. John L. Slattery,
County Attorney,
Glasgow, Montana.

Dear Sir:

I am in receipt of your inquiry under date the 22nd instant, as to the number of precincts from which it is necessary for candidates to secure nominating petitions for county offices where the territory of the county has been reduced by county division, the question specifically being whether such petitions shall be from a given percentage of precincts as they now exist in the county, or as they existed at the time of the preceding general election. Section 11 of the primary nominating law provides in part as follows:

"If the nomination is for a municipal office or for an office to be voted for in only one county, the necessary number of signers shall include electors residing in at least one-fifth of the voting precincts of the county, municipality or district."

It is to be noted that this law does not denominate any particular time or date which shall govern the number of precincts to be considered in estimating the number of names on nominating petitions. The natural inference therefore, would be that the number of precincts would be estimated as of the date when the petitions were being circulated, and it could hardly be said that precincts which had been cut off from a county by county division were in the county in which the petition is being circulated. In such case, I am of the opinion that the number of precincts governing the question is to be reckoned as of the date when the petitions are circulated.

It is well to note, however, that cases may arise where the only basis for this reckoning is the number of precincts as of the date of the last preceding election, namely in counties where precincts have been divided and the number increased. In such cases, it would be impossible to estimate the number of voters in the newly created precincts, if such precincts had been created since the last general election, since it could not be told from the registration books whether an elector was a resident of the new precinct or of the old. With this modification I am of the opinion that the rule should be as above stated.

Yours very truly,

D. M. KELLY,
Attorney General.