

County Seat, Removal of. Petition, for Removal of County Seat.

The petition for removal of a county seat must be signed by a majority of the ad valorem taxpayers of the county, the current assessment roll being used as a check, lest also it must be ascertained whether the signers of the petition voted at the last general election.

August 11, 1914.

Hon. C. A. Linn,
County Attorney,
White Sulphur Springs, Montana.

Dear Sir:

Under date of August 7th, Mr. W. C. Husband, a deputy in your office, addressed the following communication to this office:

“When a petition is filed with the Board of County Commissioners of a county for the purpose of calling an election on the question of removing the county seat, in accordance with

the provisions of Chapter II, Part IV, Title I of the Revised Codes of Montana for 1907, should the Board of County Commissioners in following out the provisions of Section 2852 of that chapter, compare the names signed to the petition with those names appearing upon the assessment roll of the year previous to the filing of the petition, or must that comparison be made with the assessment list of the same year as of the date of the poll books in the county clerk's office, which would be two years previous? The statute does not seem to be clear upon this question.

"A petition is about to be presented to the Board of County Commissioners of Meagher County for the purpose of calling an election to submit to the voters the question of the removal of the county seat of Meagher County from White Sulphur Springs to Harlowtown. The committee in charge of the circulation of this petition has requested me, as Deputy County Attorney, to give them an opinion as to whether the names subscribed to this petition would be compared with the assessment roll for the year 1912, as the poll books of that year would necessarily constitute the returns of the last election held in this county.

In reply I will say that the statute requires that the petition for removal shall be signed by a majority of the ad-valorem tax payers of the county, and while it is not directly stated, the law seems to require that the signers be also voters, for it must be ascertained whether the petition bears a majority of signers who voted at the last general election, the poll books being used for this purpose. To determine whether the signers are taxpayers it is required that the signatures appear upon the "listed assessment roll." It will be observed that this language is in the present tense, hence I believe the current assessment roll is contemplated. When it is observed that elections are held biennially, while assessments of property are made annually, it may be readily seen that the poll books used at the last general election furnish the only criterion for knowing whether a signer of the petition is a voter, but whether he also is a taxpayer is best determined by resort to the current assessment list, and if this list fails to enumerate him as an ad-valorem taxpayer he is not qualified to sign the petition.

Yours very truly,

D. M. KELLY,
Attorney General.