

**Town Incorporation of. Census-Taker, When Appointed.  
Liquor Licenses, Revocation of. Licenses, Liquor, When  
Revoked.**

When a petition for the incorporation of a town was filed at a special meeting, the Board of County Commissioners could appoint a census-taker at their next regular meeting.

When a saloon license is legally issued, it cannot be cancelled previous to its expiration merely because the population decreases below that named in Chapter 87, Laws of 1915.

June 15, 1916.

Hon. Frank A. Wright,  
County Attorney,  
Lewistown, Montana.

Dear Sir:

I am in receipt of your communication under date the 31st ultimo, submitting two questions:

"1. In a case where a petition for the incorporation of a town is filed with the Board of County Commissioners at a special meeting on May 31st, 1916, which meeting is called for hearing on liquor licenses, can the Board of County Commissioners at its next meeting, the first Monday in June, appoint a census taker as provided in Section 3208 of the Revised Codes of Montana?"

"2. Where there is a saloon, the license of which expires in September, can the commissioners revoke the license on the ground that there are not at the present time, fifty bona fide residents residing within the radius of one quarter of a mile?"

I note that you have given it, in answer to the first question, that the commissioners may appoint a census taker at the next meeting. The first Monday in June is a regular meeting for the Board of County Commissioners as provided by Section 2891. Your opinion on this question is correct.

As to the second question, it does not appear when the license was issued, or the number of people resident within one quarter of a mile of the location of the saloon at the time the same was issued; neither does it appear that the license should be revoked for any of

the reasons stated in Section 2762, Revised Codes, or Chapter 87 of the Laws of 1915. I find no authority in said Chapter 87, or other law, empowering the Board of County Commissioners to revoke a license lawfully issued for the reasons stated in your question. The right to a license depends upon the conditions existing at the time of its issuance, or upon the subsequent conduct of the licensee in operating the business. Unless it appears that the commissioners had no authority in the first instance to issue the license, or that the licensee has committed some act subjecting his license to revocation within the discretion of the Board, I am of the opinion that they would not have authority to cancel his license.

Yours very truly,

J. B. POINDEXTER,

Attorney General.