

the assessment roll and are not entitled to vote on questions relating to the creation of a levy, debt or liability.

September 24, 1934.

At the general election held on November 8, 1932, an amendment to Section 2 of Article IX of the Constitution of Montana, was proposed and approved by the people of the state, and is to be found on page 551 of the Laws of 1933. This article of the Constitution refers to the qualifications of electors and the amendment contains the following language: "If the question submitted concerns the creation of any levy, debt or liability the person, in addition to possessing the qualifications above mentioned, must also be a taxpayer whose name appears upon the last preceding completed assessment roll, in order to entitle him to vote upon such question."

The question submitted is whether or not persons who have paid a poor tax and road tax only, are entitled to vote at a bond election. This is determined by the construction of the clause "a taxpayer whose name appears upon the last preceding completed assessment roll." In the case of *Pohl v. Chicago, Milwaukee & St. Paul Railway Co.*, 52 Mont. 572, a poll tax was held not to be a tax. This decision was modified in the case of *State v. Gowdy*, 62 Mont. 119, construing the bachelor tax law, wherein same was held to be a tax.

If we concede that these parties are taxpayers, the question then becomes, do their names "appear upon the last preceding completed assessment roll?" The term "assessment roll" does not appear elsewhere in the Constitution or statutes and assessment book is spoken of in Section 2161 R. C. M. 1921. An inquiry at the office of the State Examiner reveals the fact that this is generally called an assessment roll. It was so designated in the case of *State ex rel. Galles v. Board of County Commissioners*, 56 Mont. 387. From such case and an inquiry of the State Examiner and several county assessors, it appears that the names of those who pay only road and poll taxes, are not contained upon the assessment roll.

The general understanding is that this amendment was intended to require

Opinion No. 616

Elections—Bond Elections—Qualifications of Voters—Poor Poll Tax—Road Tax—Assessment Roll.

HELD: Persons who pay only poor tax and road tax are not assessed on

property qualifications for voters upon these questions. I therefore conclude that persons who are not assessed on the assessment roll as owners of real or personal property, do not come within the terms of the constitutional provision and are not entitled to vote on questions relative to the creation of a levy, debt or liability.