

Opinion No. 242.

**Elections—Ballots—Form—Measures
Submitted to Taxpayers Only—Chapter
81, Laws of 1939—Section 2,
Article IX, Montana
Constitution.**

HELD: Where certain measures to be voted upon can be submitted to taxpayers only, the legislative will as contained in Chapter 81, Laws of 1939, can be obeyed by having all ballots voted by taxpayers stamped with the words "Taxpayer's Ballot."

The county clerk of each county should supply a list of the taxpayers entitled to vote in each voting place in each precinct.

June 28, 1940.

Hon. Sam W. Mitchell
Secretary of State
The Capitol

Dear Mr. Mitchell:

You have submitted the question as to the form of the ballot for the general election where certain measures are submitted to only those electors who are taxpayers, as required by the Montana Constitution.

Section 2, Article IX, of the Montana Constitution, reads:

"* * * 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 * * *."

Chapter 81, Laws of 1939, in prescribing the form of ballot, provides:

"* * * Provided, however, that a third column and as many additional columns as may be necessary shall be used for constitutional amendments, and initiative and referendum measures * * *."

Obviously, if each elector, taxpayer and non-taxpayer alike, is given the same ballot the constitutional restriction above quoted could not be observed. How, then, can the legislative will be obeyed? We think this may be done by the election judges stamping the words "Taxpayer's Ballot" on all ballots voted by taxpayers when they apply for the ballot. This stamp will then prevent them from counting any votes cast by non-taxpayers on measures upon which they are not entitled to vote, for they will only count the taxpayers' ballots for such measures. This procedure will make it unnecessary to have two sets of ballots, one for the taxpayers and another for the non-taxpayers, each to be consecutively numbered and will reduce printing costs and simplify matters generally.

It will, of course, be necessary for the county clerk to furnish a list of the taxpayers for each voting place in each precinct.