

Registration. County Bonds. Bond Election.

The registration law is made applicable to general elections and it is to be inferred that it applies to county elections held for the purpose of getting an expression of the electors relative to the issuance of bonds. Reasonableness of law questioned.

August 17, 1912.

Hon. D. L. Blackstone,
County Attorney,
Chinook, Montana.

Dear Sir:

I am in receipt of your letter of the 12th inst., submitting the question:

"Does an election held in a county for the purpose of issuing bonds come within the provisions of the registration law of 1911?"

Special elections do not appear to be referred to in this registration law (Chap. 113, Laws of 1911) except in Secs. 33 and 34 thereof, which provide that at such elections the official register and check list used at the preceding general election must be used. The provisions of these two sections in so far as they require the using at the special election of the register and check list of the preceding general election have been held void by at least one district court of the State of Montana and similar provisions have been held void by the supreme court of other states on the ground that such a regulation is unreasonable, in that it would have the effect of depriving many electors of the county of expressing their opinion on the question submitted. For instance at the election proposed to be held in that county on the 21st day of September, if these provisions of the law are followed no one could vote unless his name had been on the registry list for almost two years. Courts have unanimously held that to be an unreasonable regulation and we believe that the supreme court of Montana would hold these sections to be void except in so far as an expression of legislative will and intent that the registration law should apply to special county elections. The statute relating to submitting questions to the qualified electors of the county is found in Sec. 2933 et seq. of the Revised Codes. Sec. 2935 among other things provides that such elections shall be "held and conducted * * * in the manner pre-

scribed by law * * * under the general election law." The registration law, Chap. 113, is made applicable to general elections, hence we infer that it applies to county elections held for the purpose of getting an expression of the electors relative to the issuance of bonds. Under this view of the case the provisions of Sec. 18 of said Chapter 113, of the Laws of 1911, relative to the closing of the registration and the giving of the notice thereof should be followed. That is, that thirty days' notice must be given of the time when such registration books will be closed and the books must remain closed "for the full period of 30 days." Under this view of the case no election can legally be held on September 21st unless the notice of the closing of the registration has already been given as required by said Sec. 18. If the commissioners determine that they will not hold their special election on Sept. 21st but continue it to a later date in order to give time for such publication, then as a business proposition it would seem that they might as well continue it until the day of the general election and hold their special election on that same day. This would save expense and would only delay by a few days the submission of the question.

This question has never been decided by our supreme court and it is possible, of course, that the court may hold that this registration law does not apply to a special county election, but unless the supreme court should make such a holding, the sale of the bonds based on an election in which the provisions of such law were not followed would be seriously hampered.

You have undoubtedly noticed that there is a direct conflict between the provisions of Sec. 18 and Sec. 7 of said Chap. 113, and, of course, in such a case the provisions of Sec. 18 would be followed.

Yours very truly,

ALBERT J. GALEN,

Attorney General.