

**Bond Election, High School Bonds. Women, Right to Vote.  
Registration for Special Election.**

The question of issuing county and high school bonds must be submitted to the qualified electors, not to the taxpayers.

Women cannot vote at such elections.

Only such electors as were duly registered at the registration for the last general election can vote, as copies of such registration books are the ones to be used at special elections.

Helena, Montana, March 18, 1907.

Mr. Thomas Nelson Marlow,  
County Attorney,  
Missoula, Montana.

Dear Sir:—

Your letter of the 16th inst. requesting an opinion upon the following questions, received.

"1. As to who are qualified and entitled to vote on the question of bonding the county for the purpose of building a new Court House, and what qualifications must such voters possess to entitle them to vote at such election?"

"2. Who are qualified and entitled to vote on the question of bonding the County for the purpose of building a new County Free High School, and what qualifications must such voters possess to entitle him to vote at such election?"

"3. Are women entitled to vote at such election, or either of them, and if so would they have to be registered, and how would we proceed to have them registered?"

"3. Would the voters at such election have to be registered and if so, how would we proceed to have them registered?"

"5. Could the registration list used at the general election last fall be used, and if so, to what extent, and if it would have to be changed at all. in what way would it have to be changed?"

In answer to question No. 1., you are advised that under Sec. 4270, Political Code, the commissioners must submit such question to the electors of the county. The electors of a county are only those who are qualified to register and vote at a general election; and under the laws of this State an elector cannot vote unless he has been registered as provided by law. If the law provided that the questions should be submitted to the "taxpayers", instead of the "electors", then women who were taxpayers might have the right to vote, but under the law as it stands now, persons cannot vote upon such questions except those who possess the qualifications provided for by Sec. 1181 of the Political Code, and who have been duly registered as required by law.

See: Opinion Attorney General to William L. Murphy, October 9, 1906; Opinions of Attorney General for 1905-'06, page 398.

In answer to question No. 2., you are advised that under Sec. 9 of the new High School Law, which went into effect Feb. 25, 1907 whenever a majority of Free High School Trustees shall certify to the Board of County Commissioners that they have decided to submit to the electors of the county the question whether or not county bonds shall issue for the purpose of the erection or purchase of a building for high school purposes, etc., as soon as practical the County Commissioners shall proceed "to submit the question of issuing said bonds to the qualified electors of the county in the manner provided by the law for the issuance of other county bonds." You will notice that this law provides that the question of issuing bonds for the purpose of building a new county free high school shall also be submitted to the qualified electors instead of

the taxpayers, and in the same manner as the other county bonds. So it necessarily follows that persons voting on such question must possess the same qualifications as defined in answer to question No. 1., and must be registered before they can vote.

In answer to question 3. you are advised that in neither case would women be entitled to vote on such a question. (See opinion from Attorney General to Mr. T. J. Porter of Oct. 28, 1905; Opinions of Attorney General, 1905-'06, page 238.)

In answer to questions 4 and 5 you are advised that no new registration need be had for the purpose of such election, and that only the electors whose names appear upon the registration books used at the last general election are entitled to vote; as it is expressly provided by Sec. 1222, Pol. Code that "at any special election held for any purpose in any county copies of the official register and check lists which were printed or written before and used at the next preceding general election must be used, and no new register need be made."

The commissioners in publishing the notice of the election should state clearly the questions to be submitted to the electors and the time of holding the election, and should cause such notice to be published in some newspaper printed in the county, and be posted at each place of election for at least ten days before the election, in accordance with Sec. 1162 and 1163 of the Pol. Code. They should be careful to see that affidavits of the publication and also of the posting of such notices in each place of election are made and filed in the county clerk's office.

The ballots should be in the form provided by Senate Bill No. 83, approved March 14, 1901 (Laws of 1901 p. 13.) and to avoid any question that might arise thereon I would suggest that separate ballots be used for each of the questions submitted.

Respectfully submitted

ALBERT J. GALEN,  
Attorney General.