

Special Elections, Registration For. Bridge Bonds, Election For. Registration, for Bond Elections. Special County Elections, Registration For.

The provisions of Sec. 33, Chap. 113, Laws of 1911, are doubtful as to their validity and that at a special election held in a county it is advisable that opportunity be given to all qualified electors to register and vote at such election.

January 2, 1912.

Hon. Sharpless Walker,  
County Attorney,  
Miles City, Montana.

Dear Sir:

I am in receipt of your letter of December 30th in which you state that the board of county commissioners of your county has called a special election to vote upon a proposed issue of bridge bonds, and you also state that pursuant to the provisions of Sec. 33, Chap. 113, Laws of 1911, you have advised the commissioners that:

"The official register and check list used at the last general election should be used at such special election and no new registration need be made therefor."

Although this particular question has not been passed upon by the supreme court of this state, there is serious doubt as to the constitutionality of the section. It has been declared unconstitutional by the district court, Judge Cheadle having so declared in an action tried before him in Meagher county involving a special election at which the electors of Meagher county were called upon to vote upon a proposed issue of bonds for courthouse purposes. And it is my opinion that in so far as this section tends to deprive qualified electors of their right to exercise their elective franchise at such an election, it is unconstitutional, and I would advise that not only should those whose names appear upon the official register and check list used at the last preceding general election in the county, but also all those electors who have registered under the new registration act, be permitted to vote at such election. If an opportunity is afforded all the qualified

electors of the county to vote at an election there would be little question as to the validity of the proposed bond issue, but should a considerable number of qualified electors of the county be deprived of their right to participate in such election by reason of strict compliance with the provisions of Section 33, Chapter 113, Laws of 1911, it would raise a grave question as to the validity of the proposed bond issue.

Yours very truly,

ALBERT J. GALEN,

Attorney General.

**Free Holder, Who Is. Registration Law, Free Holder Under.**

Under provisions of Sec. 15, Chap. 113, Laws of 1911, the witness signing affidavit must be the owner of an estate of inheritance or for life. A homesteader who has complied with the acts required by the Acts of Congress to entitled him to patent is a free holder within the meaning of this section.