

Registration of Electors, In Wrong County. Electors. Registration Of. Cancellation, of Registration.

Where an elector registers in a county where he does not reside, his registration is void and may be cancelled upon application being made therefor.

May 21, 1912.

Hon. Paul D. Pratt,
Chairman, Board of County Commissioners,
Libby, Montana.

Dear Sir:

I am in receipt of your letter of the 14th inst., submitting two propositions, to-wit:

1. "Shall the county clerk as ex-officio registrar of Lincoln County register the 'electors' who reside in the disputed strip which lies south of the 48th parallel as residents of Lincoln County?"
2. "Shall the county clerk cancel on the Great Register and the precinct and school district register the names of any electors residing in the disputed strip who have already registered?"

First. Under the provisions of Chapter 113, Laws of 1911, it is the duty of the county clerk to register all qualified electors residing within his county upon application being made therefor. Whether or not the elector is a resident of that county is wholly a question of fact. An elector cannot reside in two counties at the same time. Neither may he be permitted to register in two counties on the ground that he is unable to ascertain in which county he resides. Hence it is a question of fact to be determined by the elector and the county clerk as to which county the elector resides in and if through error he registers in the wrong county, the error when discovered may be corrected as herein stated in answer to your second question.

Second. Under the provisions of Sections 9 and 11 of said Chapter 113, the elector seeking to be registered is required to state the section and township of his residence and from this information it is presumed that the clerk and the elector are able to determine the county,

hence if an error is committed and it is subsequently discovered that the elector has in fact been registered in the wrong county, the error is as much that of the clerk as of the elector. Sec. 17 of the Act prescribes the procedure to be had when the elector changes his residence but this section does not have reference to a condition arising when the elector has not in fact changed his residence but where the error lies in the fact of being registered in the wrong county. This section 17 is complete within itself, hence it is not necessary to refer to any other section to obtain its meaning. It therefore follows that Sec. 19 of the Act relating to the cancellation of registration deals with conditions and facts different from those specified in said Sec. 17. This Sec. 19 provides that the registration may be cancelled for the reasons therein stated, the first one being "at the request of the party registered." Hence, in the case which you state, the party registered, when he is fully satisfied that his registration is in the wrong county, should request the cancellation of his registration and under this section it would be the duty of the clerk to cancel the same on the Great Register and on the precinct and school register so that the party would be restored to the same condition he was in prior to any registration at all. As a protection to the elector and to save any question, I would suggest that he file with the clerk a brief affidavit, or at least a statement in writing to the effect that he had through error registered in the wrong county by reason of the fact of not being able to determine just where the county line is. When the registration is cancelled the elector may then register in the other county in the same manner as though he had not theretofore registered in your county.

Yours very truly,

ALBERT J. GALEN,

Attorney General.