

Elections, Registrations for. General Election, What Is. Registration, of Voters, When Necessary.

For the purposes of Chapter 74 of the Session Laws of 1913, the term "general election" means the regular biennial election held in November, according to Sec. 450, Revised Codes of 1907, and persons failing to vote at a primary nominating election are not required to re-register in order to vote at a general election.

August 29th, 1914.

Hon. C. A. Linn,
 County Attorney,
 White Sulphur Springs, Montana.

Dear Sir:

I am in receipt of your telegram under date the 26th instant, which is as follows:

"Will an elector whose name appears on the registration list of the primary election, and who does not vote at the primary election be required to register again for the November election? Section 7, Chapter 74, Laws 1913, seems to require it, if primary election is construed to be a general election."

We are in receipt of similar inquiries from a number of county attorneys of this state, and the question is of importance, for the reason that if it were answered in the affirmative, it would require the re-registration of a large number of the electors of the state, and might have the effect of disfranchising a large number of the electorate.

A general election is defined by Section 450 of the Revised Codes of Montana, of 1907, as follows:

"There must be held throughout the state on the first Tuesday after the first Monday of November, in the year 1894, and in every second year thereafter, an election to be known as the general election."

The new registration law originally passed as Chapter 113, Session Laws of 1911, and the amendment thereof, Chapter 74, Session Laws of 1913, uses the terms "general election," "special city or town election" or "school district election" and "primary election," many times in conjunction with each other, and in reference to the supplying of precinct registers to the election officers for such election very often. This is shown in Sections 18, 24, 25, 26 and 27. Notwithstanding this conjunctive use of the names of various kinds of elections, the law does show a distinctive use of the term "general election." Section 18, in referring to the closing of registration books, shows this distinction quite clearly. The words "general election" are used in a way to show that the legislature had in mind something different than a primary election. Especially is this true of the language found on page 181 of the Session Laws of 1913, relating to the closing of books for primary, municipal or school elections:

"Whenever the period during which said book is to remain closed preceding any primary, municipal or school election shall occur during the same period within which any elector would be entitled to vote at a general or special election, said books shall be closed only in so far as the registration of electors for the particular election to be held."

Also, Section 7 uses the term "general election" without any reference to the other sorts of elections:

"Such general registration of all voters shall be required but once, and any person once registered shall thereafter, so

long as he remains a qualified elector of the precinct from which he registers, shall be entitled to vote, provided, the names of any qualified elector who shall fail to vote at any general election, shall by the county clerk, in the manner hereinafter provided, be removed from the precinct register, and he may not thereafter vote until he has again registered."

"The manner hereinafter provided," is set forth in Sections 27 and 28 of the law, and in Section 28, the legislature conclusively indicated the meaning which they intended the term "general election" to have. The meaning of the first part of Section 28 is not at all clear, as written in the laws of 1913. By reference to the section of the law of 1911, of which it is an amendment, and the language of the section itself, the meaning is made entirely clear:

"The county clerk shall not enter upon the precinct register the name of any elector which may have been entered upon the precinct register for the preceding two years, which shall have been cancelled for any cause, or which does not show that the elector voted and exercised the privilege of franchise in the general or special November election preceding it."

And reference to the law of 1911 shows that a confusion between the terms "precinct register" and "great register" crept into the enactment of 1913, but by the specification of the November election as the one at which a voter must exercise the franchise in order to preserve his registration, the legislature clearly indicated what election they meant. The specific mention of the November election excludes the idea of elections held at other times, and by Section 450, Revised Codes, 1907, above quoted, this was designated as a general election, and we are forced to the conclusion that it was this biennial November election which the legislature referred to when they said "general election," in as much as they had nowhere in the law of 1913, defined the term "general election."

I am, therefore, of the opinion, for the purposes of Chapter 74 of the Session Laws of 1913, the term "general election" means the regular biennial election held in November according to Section 450, Revised Codes of 1907, and that it was intended that the precinct registers used at this election should be used by the county clerk in keeping up to date the official register of electors, and that persons failing to vote at the primary nominating election are not compelled to re-register in order to be entitled to vote at the coming November general election, providing, of course, they were properly registered for, and voted at the last general election.

Yours very truly,

D. M. KELLY,
Attorney General