

**Legal Holidays—Elections—Registration—Cancellation—  
Voting.**

The election on highway debentures called for May fifth is a general election. Polls at general election are required to

be open from 8 a. m. to 6 p. m. The day on which general election is held is a legal holiday.

Section 562, R. C. M. 1921 relates to general biennial election; hence, names of those not voting at general election May fifth, 1931, should not be stricken from register.

Mr. W. E. Harmon,  
Secretary of State,  
Helena, Montana.

April 21, 1931.

My dear Mr. Harmon:

You have requested an opinion on the following three questions:

"1. Shall the county clerk cancel the registrations of those who do not vote in this election immediately after such election?

"2. Should the polls be kept open from 8 o'clock A. M. to 6 o'clock P. M. as provided in section 594?

"3. Will this be a legal holiday as provided for in section 10, R.C.M. 1921?"

The election which is called for on May fifth is called under the provisions of section 2 of article XIII of the constitution; the last part of this section requires that such a law shall be submitted to the people "at a general election."

In the case of State vs. State Highway Commission, 296 Pac. 1033, the court said in speaking of this provision:

"This provision was a part of the Constitution as originally adopted and was framed at a time when the referendum was comparatively unknown. We think, considering the subject matter of the section, the term 'general election' does not mean necessarily the general biennial election. The Constitution does not say so, and Constitutions ordinarily do not provide the machinery for carrying out their commands; \* \* \*"

We think the "general election" named means a statewide election at which all the people entitled to vote may vote upon a question affecting them as a whole.

Section 562 requires the county clerk immediately after every "general election" to remove from the official register the registry cards of all those not voting. In this section the legislature was referring to the general biennial election and not to some special election which by being state-wide might be called a "general election." To hold otherwise would result in the utmost confusion in the state.

It is therefore my opinion that the county clerk should not cancel the registration of those who do not vote at this election immediately after such election.

Answering your second question, section 689 requires that the polls be kept open continuously from 8 o'clock A. M. to 6 o'clock P. M. on the day of election.

Answering your third question, this day will be a legal holiday as

being a day on which a general election is held throughout the state as provided in section 10, R.C.M. 1921.

Very truly yours,

L. A. FOOT,

Attorney General.