

election, and new registrants must appear personally before the county clerk or a deputy, as provided in Chapter 172, Laws 1937, to re-register, whether residing within or without the county or state.

July 24, 1937.

Mr. W. J. Babington
County Clerk and Recorder
Missoula, Montana

My Dear Mr. Babington:

Your letter inquiring as to the methods provided for by law for the registration of certain electors has been received.

In order to answer the questions submitted by you, it is necessary for us to consider the method of registration of three classes of electors.

1. Electors who voted by absent voters' ballots and who are now residing out of the county.
2. Electors within the county.
3. Electors who voted at the last general election and who now are out of the county and state.

In ascertaining the intention of the legislature we should be guided in the light of the situation existing in the last general election, which situation it appeared to be the intention of the legislature to remedy and correct.

Chapter 147, 1937 Session Laws, provides that electors whose registry card bears the stamp "voted by absent voters ballot" may re-register only by personally appearing at the office of the county clerk, or any deputy registrar. Thus it will be seen that those persons who voted by absent voters ballot, whether they now reside within the county or not, must personally appear in the county in order to re-register. The language in said Chapter 147 is very explicit, and the word "personally" is inserted therein.

Chapter 172 provides that:

"Any elector residing within the county may register by appearing before the county clerk and ex officio registrar and making correct answers to all questions propounded by the county clerk touching the items of information called for by such registry card, and by signing and verify-

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ing the affidavit or affidavits on the back of such card."

This chapter also provides that certain other officers, such as justices of the peace and notaries public, may register electors residing more than ten miles from the county courthouse in any precinct within the county.

In the title of Chapter 172 we find the language, "Who May Register." Section 4 of Chapter 172 is the recodification of Section 555, Revised Codes of Montana 1935, and the title of that section is, "Who May Register." Chapter 172 is the only authority under which electors may register. Section 4 of Chapter 172 requires the elector to "appear" before the county clerk, etc., while in the chapter relating to absent voters we have the language "personally appearing." The word "personally" has been omitted from Section 4 of Chapter 172. Nevertheless, reading the entire Chapter 172, it appears that it is necessary for the elector to personally appear in the county. Paragraph 1, Section 4, Chapter 172, requires the elector to appear before the county clerk and make correct answers to all questions propounded by him touching the items of information called for by such registry card. Unless the elector appeared within the county and before such officer, it would be impossible for that officer to interrogate the elector. We can find no provision in Chapter 172, *supra*, or elsewhere, authorizing the elector who resides out of the county or state to register by mail.

In Section 556, Revised Codes of Montana 1935, which has been amended, we do find provision made for the registration of an elector who is sick or who resides more than ten miles from the office of the county clerk, but the statute does not appear to extend the right of registration to persons away from the county.

Section 4 of Chapter 172 provides further: "that any person who shall cause any name to be placed upon the registry lists otherwise than in the manner provided in this act, shall be guilty of a felony," and it would follow that it was the intention of the legislature that Chapter 172 be explicitly followed, and that Chapter 172 provides the only means of registration.

We are not unmindful of the fact that many persons who voted person-

ally at the last general election, and who now are temporarily absent from the state, will be subject to a great deal of inconvenience, and it may be assumed that the legislature considered such results. However, whatever the results may be, we are not in a position to read into the law something which is not existent, and any correction of the law must be submitted to the legislature.

Therefore, it is our conclusion that all electors, including those who voted by absent ballot at the last general election, electors residing within the county, and electors who voted at the last general election and who now are without the county or state, in order to re-register, must personally appear within the county to do so, and cannot re-register by appearing before a notary public or other such officer in another county or state and sending in their registration cards by mail.