

No. 354

ELECTIONS—POLL BOOKS—COUNTY CLERK, duty preparing poll books for election concerning creation of levy, debt or liability

Held: If the county clerk is satisfied, from such knowledge as he may have officially or otherwise or as he may secure from the county records, that the name of a registered elector is the same as a name appearing upon the last preceding completed assessment roll of the county, then he should include that name in a poll book for an election concerning the creation of a levy, debt or liability.

February 4, 1942.

Mr. Edison W. Kent
County Attorney
Granite County
Philipsburg, Montana

Dear Mr. Kent:

You have asked this office for an opinion on the following question:

When it becomes the duty of the county clerk to make up a poll book of electors qualified to vote at an election concerning the creation of a levy, debt or liability, how is it to be determined whether the person whose name appears on the last assessment roll is the same person who signed a registration card?

In Section 2 of Article IX of the Montana Constitution the qualifications of electors are set forth. It is provided that "if the question submitted concerns the creation of any levy, debt or liability the person, in addition to possessing the qualifications above mentioned, must also be a taxpayer whose name appears upon the last preceding completed assessment roll, in order to entitle him to vote upon such question."

Poll books are prepared for all elections, including those relating to creation of a levy, debt or liability, by the county clerk under the provisions of Section 568 of the Revised Codes of Montana of 1935. It would appear that, if the county clerk is satisfied the identity of the registered elector is the same as the person whose name appears on the last completed assessment roll, then that elector should be included in the poll book for an election relating to creation of a levy, debt or liability. A somewhat similar question arose with respect to comparison of names on initiative petitions and those on county registration cards. It was then held that, if the county clerk is satisfied as to the identity of the petition

signer, he should certify the signer and the registered voter are one and the same person. (Vol. 18, Opinions of the Attorney General, No. 205).

It is my opinion that, if the county clerk is satisfied, from such knowledge as he may have or may secure, the name of a registered elector is the same as a name appearing upon the last preceding completed assessment roll of the county, then he should include that name in a poll book for an election concerning the creation of a levy, debt or liability.

Sincerely yours,

JOHN W. BONNER
Attorney General