

Opinion No. 211.

**Elections, Destruction of old Ballots—
Ballots, Destruction of—Scrap Paper
Drive—County Clerks.**

Held: Under the provisions of Section 786, Revised Codes of Montana, 1935, the county clerk has not the authority to give old election ballots to the scrap paper drive, but the clerk must burn the same without opening the packages.

May 19, 1944.

Mr. Frank J. Roe
County Attorney
Silver Bow County
Butte, Montana

Dear Mr. Roe:

You have requested my opinion concerning the availability of old election ballots for the scrap paper drive being conducted in this state as part of our contribution to the war effort.

Section 786, Revised Codes of Montana, 1935, provides:

“Upon the receipt of the packages by the county clerk, he must file the one containing the ballots voted and the one containing the detached stubs and unused ballots, and must keep them unopened and unaltered for twelve months, after which time, if there is no contest commenced in some tribunal having jurisdiction about such election, he must burn such packages, or envelopes without opening or examining their contents.”

It is apparent from the above section that the legislature contemplated that old ballots should not be open to casual inspection and that the only time they should be opened is for an election contest. It is regrettable that this source of scrap paper is not available. It may be suggested here that this matter be presented to the legislature at its session commencing next January.

It is therefore my opinion under the provisions of Section 786, Revised Codes of Montana, 1935, the county clerk has not authority to give old election ballots to the scrap paper drive, but the clerk must burn the same without opening the packages, as under the above section the legislature has made it mandatory on the county clerk to burn the

packages or envelopes containing the
voted ballots, stubs and the unused
ballots.

Sincerely yours,
R. V. BOTTOMLY
Attorney General