

Opinion No. 230.

Elections — Registration of Voters, right of person who voted absent voters' ballot at last general election to vote at next election without re-registering—Absent Voters' Ballot.

Held: If the county clerk canceled the registration of a person, except military personnel, who voted by absent voters' ballot at the general election in 1942, prior to the 5th day of March, 1943, such voter must appear personally before some registrar in the county and reregister in accordance with the provisions of Chapter 147, Laws of 1941, or register as provided by Chapter 190, Laws of 1943.

July 26, 1944.

Mr. Sam W. Mitchell
Secretary of State
State Capitol
Helena, Montana

Dear Mr. Mitchell:

You have requested an opinion of this office as to the effect of Chapter 177, Laws of 1943, upon the cancellation of registration of persons who voted in the 1942 general election by absent voters' ballots, and whether such persons have a right to vote in the next general election without re-registering.

Section 562, Revised Codes of Montana, 1935, was amended by Chapter 147, Laws of 1937, which amendment provided that the registration cards of persons voting by absent voters' ballot in 1936, and at elections thereafter, be removed from the registration records and marked canceled, and such persons would have to reregister, by

personally appearing before a registrar in the county, prior to voting in that county at any future elections. Section 562 and Chapter 147 were again amended by Chapter 144, Laws of 1941, to provide that military personnel might make affidavit, within a certain period of time, that they were in service at the time of the last general election, and had, for that reason, voted, or attempted to vote, absent voters' ballots, in which instance their registration would not be canceled. Chapter 144 did not make any other change in Chapter 147. Chapter 177, Laws of 1943, again amended Section 562, and also amended Chapter 144, Laws of 1941, in that it provided only for the cancellation of registration of those persons who did not vote at all at a former general election, and also liberalizes the soldiers' registration requirements in that respect.

It is to be noted, however, that Chapter 177, Laws of 1943, contains no retroactive clause or phraseology. It was adopted and went into effect on the date of approval, which was on March 5, 1943. Thus, all registrations that had been canceled prior to the effective date of Chapter 177, would remain canceled and could be revived only by reregistration.

Therefore, it is my opinion if the county clerk and recorder, prior to the 5th day of March, 1943, canceled the registration of any voter, except military personnel, for voting at the 1942 general election by absent voters' ballot, such registration could only be revived by reregistration, as provided under the provisions of Chapter 144, Laws of 1941, or as provided by Chapter 190, Laws of 1943.

Sincerely yours,
R. V. BOTTOMLY
Attorney General