

Opinion No. 45.**Elections—Highway Debenture
Election—County Officials**

Held: Each county clerk must mail to each registered voter in his respective county at least one (1) copy of Chapter 217, Laws of 1943, on or before five (5) days after the closing of registration provided in that chapter.

April 16, 1943.

Mr. Wilbur P. Werner
County Attorney
Glacier County
Cut Bank, Montana

Dear Mr. Werner:

You have inquired whether the county clerks must, at least five days before the closing of registration for the highway debenture election of June 8, 1943, mail to every registered voter a copy of Chapter 217, Laws of 1943.

Section 14 of Chapter 217 Laws of 1943, the chapter authorizing the highway debenture election, provides in part:

"The Secretary of State shall, not later than the twentieth day of April, 1943, cause to be printed and delivered to the County Clerk and Recorder of each county a true copy of the title of this act, with the form in which the same shall be printed on the official ballots and submitted to the people at such election. The Secretary of State shall concurrently distribute to each county clerk a sufficient number of the copies of said act, in full, to furnish one (1) copy to every voter in each county. Each county clerk shall be required to mail to each registered voter in his respec-

tive county at least one (1) copy of the same on or before five (5) days after the closing of registration. Each county clerk shall return to the Secretary of State with the abstract of votes on this act in his county an affidavit duly executed showing compliance with this section, and the Secretary of State shall file affidavit of his compliance with all provisions of this act in the record of said election in his office." (Emphasis mine.)

You have called my attention to the fact that Section 15 of the Chapter, immediately following the above quoted provisions, sets forth the qualifications for those who may vote at the highway debenture election—i. e., registered electors whose names appear on the last preceding completed assessment roll; but I fail to see where Section 15 in any manner modifies, limits, or qualifies the provisions of Section 14. The two sections, although contained in the chapter providing for the election, relate to two different subjects: Section 14 provides unambiguously the duties of the Secretary of State and the various county clerks with regard to putting into the hands of the electors copies of the referendum measure, while Section 15 as clearly relates only to the qualifications of electors.

The legislative will is so clearly expressed in Section 14—"Each county clerk shall be required to mail to each registered voter . . . at least one (1) copy . . ."—that the intention of the legislature becomes plain without construction. While it may be more economical and expeditious administratively to require such mailing by the county clerk only to each registered qualified voter, I feel the legislative assembly has clearly displayed its intention every "registered voter" have an opportunity to scrutinize and study the proposed measure.

It is highly probable there are within this state many registered voters who are now taxpayers, but who were not taxpayers whose names appear on the last preceding completed assessment roll and hence cannot participate in the June 8th balloting. Such persons—and conceivably many others—obviously have an interest in the issue to be submitted to the qualified electorate. It may have been such of our citizens the legislative assembly had in mind

when it required a copy of the act to be mailed to "each registered voter."

" . . . This court will not read into a statute words necessary to make it conform to a supposed intention of the legislature. (Sec. 10519, Rev. Codes 1921; *Vennekolt v. Fischl*, supra; *State ex rel. Kurth v. Grinde*, 96 Mont. 608, 32 Pac. (2d) 153.) While it is the general rule that it is the duty of this court to ascertain the intention of the legislature, if possible, and construe the Act with reference to that intention, it is equally true that the intention must be gathered from the language employed by the lawmakers. . . ." (*Mills v. State Board of Equalization et al.*, 97 Mont. 13, 28, 33 Pac. (2nd) 563, 569.)

The Secretary of State informs me he has distributed to each county clerk a sufficient number of the copies of Chapter 217, Laws of 1943, to furnish one copy to every voter in each county, and has instructed each county clerk to mail at least one copy of the chapter to each registered voter; and I agree his instruction is in full compliance with the law.

It is therefore my opinion each county clerk must mail to each registered voter in his respective county at least one (1) copy of Chapter 217, Laws of 1943, on or before five (5) days after the closing of registration provided in that chapter.

Sincerely yours,
R. V. BOTTOMLY
Attorney General.