

Opinion No. 204.

Election, Bond—Bond Election—
Courthouse Bond Election—Ballots,
Election.

Held: Rejected ballots at a bond election are not considered in ascertaining the majority vote cast at such election.

September 10, 1946.

Mr. Seth G. Manning
County Attorney
Wibaux County
Wibaux, Montana

Dear Mr. Manning:

You have submitted the following for my opinion:

At a recent bond election 210 votes were cast for the issuance of the bonds, 206 votes were against the issuance of the bonds and 9 votes

were rejected. You ask how the 9 votes shall be counted in determining the majority vote.

From your letter I assume there is no question concerning the 40% of the qualified registered electors who must participate in the election, as required by Section 4630.13, Revised Codes of Montana, 1935. The 416 votes cast which have been counted apparently meet this requirement.

The nine votes which were rejected cannot be counted for or against the bond issue. In 18 Am. Jur. 342, the text states:

"The weight of authority adheres to the view that a qualified voter who succeeds in getting his name on the poll list and a ballot in the ballot box is not a voter unless his ballot is such as is prescribed by law, and that blank and illegal ballots should be rejected in computing the number of votes." (See also 20 C. J. 207.)

Section 778, Revised Codes of Montana, 1935, as given us by the legislature, specifies the manner of counting votes for individual candidates and provides.

"No ballot or vote rejected by the judges must be included in the count provided for in this section."

From the above rule it is apparent the nine votes which were rejected do not affect the results.

It is therefore my opinion rejected ballots at a bond election are not considered in ascertaining the majority vote cast at such election.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General