

ficer, there must be two separate poll books, one containing only names of electors who are taxpayers and the other all qualified registered electors. Registration of electors qualified to vote on the bond issue must close thirty days before election, while registration of electors qualified to vote at election of a public officer must close forty-five days before date of election.

April 6, 1945.

Mr. M. L. Parcels
County Attorney
Stillwater County
Columbus, Montana

Dear Mr. Parcels:

You have called my attention to Section 566, Revised Codes of Montana, 1935, and Chapter 28, Laws of 1945, and request my opinion on the question:

Do these acts require a re-registration of all voters for either of these two special elections and on what day must registration close for the election to be held on June 5, 1945?

In referring to the two special elections to be held on June 5, 1945, I assume you mean the special election to be held pursuant to Chapter 149, Laws of 1945, submitting the question of issuance of highway bonds, and the special election called by proclamation of the Governor to fill the vacancy in the office of Representative in the Congress of the United States from the Second Congressional District.

In answering your question, it is necessary to keep in mind the fact two separate special elections are to be held on the same date. One is the election at which electors will vote on the issuance of bonds, and which is confined to electors who are taxpayers, and the other is the election of a public officer, on which all duly qualified and registered electors may vote.

Chapter 28, Laws of 1945, is an act providing the qualifications of electors at special elections where the question is as to the incurring of a state debt, the issuance of bonds or debentures by the state, other than refunding bonds or debentures, or the levying of a state tax for any purpose. The act provides at such special elections only registered electors residing within the

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Held: Under provisions of Chapter 28, Laws of 1945, poll books must contain only names of qualified registered electors who are taxpayers and whose names appear on last assessment roll of some county. Where two special elections are held on same date, one for issuance of bonds and other for the election of a public of-

state and who are taxpayers upon property therein and whose names appear upon the last completed assessment roll of some county of the state for state, county and school district taxes shall be qualified to vote on such question. The act further specifically provides that registration shall close thirty days before the date of election and that the clerk shall give notice of such closing ten days prior thereto. It further provides for the preparation of the poll books by the clerk in the manner provided by Section 568, Revised Codes of Montana, 1935, "except that such poll books shall contain only the names of the electors qualified to vote on such question at such election . . ." The provisions of this special act therefore would govern the special election on the highway bonds to be held on June 5, 1945.

The special election for the election of a congressman, in the absence of any special act, must be governed by the general election laws. This includes, of course, the provisions of our statutes relating to registration.

Section 566, Revised Codes of Montana, 1935, provides, insofar as is pertinent here:

"The county clerk shall close all registration for the full period of forty-five days prior to and before any election . . . The county clerk must cause to be published . . . for thirty days before which time when such registration shall be closed for any election, a notice signed by him to the effect that such registration will be closed on the day provided by law, and which day shall be specified in such notice . . ." (Emphasis mine.)

Chapter 28, Laws of 1945, is a special and later act dealing with a specific subject, i. e., special elections to vote on the creating of an indebtedness or issuance of bonds, while Section 566 is a general statute dealing generally with registration for any election, general or special. To the extent that the two are in conflict, the later, that is, Chapter 28, prevails as to the special subjects with which it deals. (*State v. Mills*, 81 Mont. 86, 261 Pac. 885; *In re Wilson's Estate*, 102 Mont. 178, 56 Pac. (2d) 733.)

It is therefore my opinion the clerk must close the registration for each

election on a different day, and give notice of such closing for different periods of time. In the one instance—relative to the special election on the bond issue—registration must close thirty days prior to June 5, 1945, and notice of such closing must be published ten days prior to the date of closing. For the special election to elect the congressman in the second district in those counties within such district, registration must close forty-five days prior to June 5, 1945, and notice of such closing must be published thirty days prior to the date of closing.

Separate poll books must be prepared; one containing only the names of those registered electors "residing within the state and who are taxpayers upon property therein and whose names appear upon the last completed assessment roll of some county of the state for state, county and school district taxes;" the other containing the names of all registered electors qualified to vote for public officers.

The purpose of providing for registration of electors prior to any election is to give those electors whose registration had been cancelled for failure to vote or otherwise, and those electors who had never registered, an opportunity to register and thus be eligible to vote. Those duly registered electors whose registration has not been cancelled are not required to register for either election to be held on June 5, 1945.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General