

**Opinion No. 29.****Elections—Registration—Poll Books,  
what names to contain.****Held: In counties where more than  
one question is submitted to the  
electors at the same special elec-  
tion, the laws governing which  
require different registration  
closing dates, separate poll  
books are required.**

April 17, 1945.

Mr. Homer A. Hoover  
County Attorney  
McCone County  
Circle, Montana

Dear Mr. Hoover:

You have advised me there will be submitted to the elector's in your county, at special elections called for June 5, 1945, several questions, viz: (1) to fill the congressional vacancy, (2) highway debenture, (3) issuance of bonds for court house, and (4) issuance of bonds for county hospital. You request my opinion whether one official register only is legally required.

This office has just issued Opinion No. 26, Volume 21, Report and Official Opinions of Attorney General, in which it was held that—under the provisions

of Chapter 28, Laws of 1945—the poll book for the election on the highway debenture must contain only the names of those qualified to vote on such question, that is, qualified registered electors who are taxpayers and whose names appear on the last completed assessment roll of **some county** of the state for state, county and school district taxes. In view of this provision and the fact electors qualified to vote for congressman need not be taxpayers, it is necessary to prepare two poll books, one for each election. Chapter 28, *supra*, governs only elections at which the question submitted is the incurring of a state debt, the issuance of bonds or debentures of the state or the levying of a state tax for any purpose.

Under the provisions of Section 4630.12, Revised Codes of Montana, 1935, as amended by Chapter 138, Laws of 1939, in all county bond elections only qualified registered electors residing within the county who are taxpayers upon property **therein**, and whose names appear upon the last completed assessment roll for state, county and school district taxes, shall have the right to vote. The poll books for such an election must contain the names of those thus qualified.

The qualifications for electors at elections on bond issues or creating a state debt, and those qualifications for electors on questions of county bonds or debts are different, in that in the former case any qualified registered elector whose name appears on the last completed assessment roll of **any county** is eligible to vote, while in the latter only those electors who are taxpayers on property **within the county** and whose names appear on the last completed assessment roll of **that county** are eligible.

Another factor to be considered is the period prescribed for closing registration. Under Chapter 28, Laws of 1945, registration must close thirty days before the date of election. Under Section 4630.12, *supra*, as amended, registration closes on the fifteenth day before the date of election. Under the general election laws, which govern the election for congressman, registration closes forty-five days before the date of election. (Section 566, Revised Codes of Montana, 1935.)

Therefore, at the close of each registration period, the clerk is required

to make up the registration list for the ensuing election for which such registration was open and such list may contain only the names of those electors who were registered at the close of the period prescribed. Hence, only those electors who were registered forty-five days before June 5th, would be eligible to vote for congressman; those registered thirty days before June 5th would be eligible to vote on the highway debenture question, and those registered fifteen days before June 5th would be eligible to vote on the county bond issues. However, for the two questions on bond issues submitted in your county, registration closes on the same date; hence, the poll books would contain all eligible registered voters on these questions.

It is therefore my opinion that—in McCone County where three distinct special elections are to be held on the same date—three separate poll books are required. One poll book will contain the names of electors who are registered forty-five days prior to June 5th, and are thus eligible to vote for congressman. One poll book will contain the names of all electors who are duly registered thirty days prior to June 5th, and who are taxpayers whose names appear on the preceding assessment list of **some county** in the state for state, county and school district taxes, and are thus eligible to vote on the highway debenture question. The third poll book shall contain the names of electors who are duly registered fifteen days prior to June 5th, and who are taxpayers whose names appear on the preceding assessment list of **McCone County** for county, state and school district taxes, and are thus eligible to vote on the county bond issues.

It may be pointed out here:

1. The poll book for electors eligible to vote for congressman will contain the names of all qualified electors duly registered forty-five days prior to June 5th, whether taxpayers or not.
2. The poll book for the highway debenture question will contain the names of all qualified registered electors who are taxpayers and whose names appear on the preceding assessment list of **some county** in the state, plus those qualified elector taxpayers who register after the close of the forty-five-day registration period, and at or before

the close of the thirty-day registration period.

3. The poll book for election on the county bond question will contain the names of all eligible registered electors who are taxpayers and whose names appear on the preceding assessment list in McCone County, plus those qualified elector taxpayers in McCone County who register between the close of the thirty-day period and the close of the fifteen-day period.

Sincerely yours,  
R. V. BOTTOMLY,  
Attorney General