

Opinion No. 59

COURTS: Judges, election—ELECTIONS: Judges, election of—Sections 23-2001, et seq. R.C.M., 1947—Chapter 91, Laws of 1957—Article V, Section 26, Constitution of Montana

Held: Chapter 91, Laws of 1957, has no effect upon the existing method of nominating and electing district court judges.

April 13, 1960

Honorable Dale L. McGarvey
State Representative
Flathead County
Kalispell, Montana

Dear Mr. McGarvey:

You have requested my opinion concerning the following question:

Did Chapter 91, Laws of 1957, change the method of nominating and electing district court judges?

Section 1, Chapter 91, Laws of 1957, provides:

“In each judicial district there must be the following number of judges of the district court, who must be elected by the qualified voters of the district, and whose term of office must be four (4)

years, to wit: In the first, second, fourth, eighth, **eleventh**, and sixteenth, two judges each, in the thirteenth, three judges, and, in all other districts, one judge each.

"Appointment and election of Judge. That on or before July 1, 1957, the governor of this state shall designate and appoint a judge of the said eleventh judicial district who shall hold office until the general election to be held during the year 1958, and until his successor is elected and qualified. The judge elected at the general election during the year 1958 shall hold office until his successor has been elected and qualified at the presidential general election to be held during the year 1960."

It is evident that the Legislature intended to create a two judge district court for the eleventh judicial district and to provide that the first full four year term of office should commence after the presidential general election held during the year 1960.

District judges are elected in the manner specified by our Non-Partisan Election Laws, Section 23-2001, et seq., R.C.M., 1947. Nothing contained in Chapter 91, Laws of 1957, can be said to indicate a Legislative intent to provide a different procedure for the election of district court judges.

Moreover, Article V, Section 26, of the Constitution of Montana prohibits the Legislature from enacting special legislation, as this section provides in part:

"The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: * In all other cases where a general law can be made applicable, no special law shall be enacted."**

Chapter 91, supra, applies only to the eleventh judicial district. It cannot be inferred that the Legislature intended that the district court judges for the eleventh judicial district should be elected in a different manner than the district court judges of other judicial districts.

Where the meaning of the statute is clear and unambiguous on its face, the statute must be construed from the common meaning of the words used in the statute. Our Supreme Court in the case of *State v. Cudahy Packing Co.*, 33 Mont. 179, 82 Pac. 833, said:

"The intention of any legislation must be inferred in the first place from the plain meaning of the words used. If this intention can be so arrived at, the courts may not go further and apply other means of interpretation."

Thus in the instant case there is no need to look beyond the plain meaning of the language employed to ascertain the legislative intent.

It is my opinion that Chapter 91, Laws of 1957, did not intend to, nor does it, make any change in the method of nominating or electing

judges for the eleventh judicial district, or any other judicial district, and does not make any change in the Nonpartisan Election Laws, Sec. 23-2001 et seq., R.C.M., 1947.

Very truly yours,
FORREST H. ANDERSON
Attorney General