

Opinion No. 42-4067

April 15, 1942

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Ed L. Manson Member Curry County Registration Board Santa Fe, New Mexico

{*182} In your letter dated April 11, 1942, you call the attention of this office to certain discrepancies in the election laws relative to the dates of registration and the requirements for publication of notice giving the names of the registration clerks and date and place of holding the registration.

The Secretary of States office and also various County Clerks have informally called this matter to our attention, and it is found best to try to construe the law in such manner as to carry out the apparent intention of the Legislature.

Under the provisions of Chapter 2, Section 8, Special Session Laws of 1938 (Section 808 of the Compiled Election Code) the date of the primary election is the second Saturday in September, which for this year will be September 12. Section 10, Chapter 152, Laws of 1939. as Amended by Section 1, Chapter 142, Laws of 1941 Section 210 of the Compiled Election Code) provides in part as follows:

"Said Board of Registration shall appoint one registration clerk in each such precinct, or election district, from each of the two dominant political parties in the state. Such registration clerks shall be appointed to act for a period of not more than one day, and shall commence their duties on Monday of the fourth week preceding the date of the primary election."

In view of the fact that the registration books are required to be closed at 5:00 P. M. on the 30th day preceding any election at which the registration books are used, Section 3, Chapter 142, Laws of 1941, (Section 215 of the Compiled Election Code) it is to be assumed that the Legislature intended the one day registration to be held prior to the date the registration books are to be closed.

In view of that fact, the Legislature undoubtedly intended the registration date to be on Monday of the fourth week preceding the week in which the primary election date falls. Under that construction such registration day would fall on August 10 of this year, and the registration books would be required to be closed at 5:00 {*183} P. M. on August 13.

As to the notice required, the registration clerks must be appointed forty days prior to the primary election, Section 1, Chapter 142, Laws of 1941 (Section 210 of the Compiled Election Code). Forty days prior to September 12 falls on August 3 of this year. Under Section 11, Chapter 152, Laws of 1939 (Section 211 of the Compiled Election Code) the Board of registration is required to publish notice of the names of registration clerks and the time and place of holding such registration in a newspaper of

general circulation in the County once each week for two successive weeks; the last insertion of such notice to be not less than ten days before such registration day.

Since we have already determined that the registration clerks must be appointed on August 3, and the registration date is August 10, it is apparent that full compliance cannot be given to the 1939 Law above mentioned. Since the law relating to the date of appointment of the registration clerks, and also the law relating to the time for closing the registration books, were both passed in 1941, such legislative enactment of later date would supersede and amend by implication an earlier law which was inconsistent with the later law. Since it is impossible to have two notices published, the last one to be not less than ten days before the registration date, we can only assume that the 1941 Legislature by allowing seven days between the date of appointment of registration clerks and the date on which registrations are to be made, intended to do away with the requirement of a notice being published at least ten days before the registration, and also to do away with the requirement of the notice being published once a week for two successive weeks. We have remaining then an apparent intention of the Legislature that only one publication be made of the notice of appointment of the registration clerks and times and places of holding such registration.

In my opinion, if this single notice is published any time between August 3 and August 10, depending upon the date of publication of the newspaper selected, such notice will be substantial compliance with the statute as above construed.

By C. C. McCULLOH,

Asst. Atty. General