

Opinion No. 42-4124

July 21, 1942

BY: EDWARD P. CHASE, Attorney General

TO: Mr. James C. Enloe Assistant District Attorney Socorro, New Mexico

{*222} We acknowledge receipt of your letter of July 16, 1942, wherein you have made certain inquiries of this office with regard to the election laws. Your questions will not be restated, and will be answered in consecutive order.

1. Section 314, Election Code (Section 31, Chapter 147, Laws of 1935), fixes the date for the meeting of the Board of County Commissioners when they are to appoint election officials as the third Monday next preceding any election. The third Monday next preceding September 12th (Primary Election day) is August 24th. The notice of the meeting must be given at least ten days prior to the date of the meeting and, therefore, the notice to the party chairman would have to be given on or before the 14th of August, 1942.

2. Your second question has already been answered. It seems rather clear that August 24th is meant as the date for the meeting of the Board of County Commissioners for the appointment of election officials.

3. Inasmuch as the word "election" has been defined in Section 201 of the Election Code (Section 1, Chapter 152, Laws of 1939), as applying to all primary elections, general elections, special elections, and municipal elections, it is our opinion that the provisions contained in Section 301, Election Code (Section 1, Chapter 35, Laws of 1933) are applicable to the primary election. With regard to the latter section, it is our opinion that the legislature intended that there be a publication as described therein. The dates this year for the publications described in Section 301 should be made on August 28th and September 4th.

4. Your fourth question has been answered by the answer given to question number three.

5. Notification by the county clerk of county chairman of the meeting date for the appointment of election officials to act at general election should be made on or before the 9th day of October, 1942.

6. The meeting date for the appointment of these officials is October 19, 1942, the third Monday preceding the general election. I do not believe that there is any conflict between Sections 314 and 301 of the Election Code.

7. The 19th of October is the proper date for the first publication required by Section 301, Election Code.

8. The second notice shall be published on October 26th. It may be rather difficult to carry out the provisions of the law, inasmuch as the appointment of election officials for the general election and the publication date for the first publication fall upon the same day. I am at a loss to say what can be done to work out this apparent difficulty.

I am enclosing herewith a copy of Opinion No. 3813 which may answer your question asked with regard to Chapter 211, Laws of 1941.

Trusting that the foregoing sufficiently answers your inquiries, I am,

By GEO. H. HUNKER, Jr.

Asst. Atty. General