

Opinion No. 66-38

March 30, 1966

BY: OPINION OF BOSTON E. WITT, Attorney General Oliver E. Payne, Deputy Attorney General

TO: Jane Rice, County Clerk, Lea County, Lovington, New Mexico

QUESTION

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Do the affidavits of registration taken in outlying precincts by the "one-day" registration clerks have to be in the county clerk's office at five o'clock p. m., on the day that the registration books are closed?

CONCLUSION

No.

OPINION

{*46} ANALYSIS

Prior to answering your specific question we must first determine the date on which the registration books are to be closed for the May, 1966, primary election.

Section 3-2-19, N.M.S.A., 1953 Compilation (P.S.) provides that:

"The county clerk shall receive affidavits of registration at all times except that he shall close registration at five (5) o'clock P. M. on the **thirtieth** day preceding any election at which the registration books are to be furnished to the judges of election. . . ."
(Emphasis added.)

The primary election is to be held on the first Tuesday after the first Monday in May -- which falls on May 3, 1966.

In computing the thirtieth day preceding the election, the day of the event is excluded and the last day included "unless the last falls on a Sunday, in which case the time prescribed shall be extended so as to include the whole of the following Monday." Section 1-2-2, N.M.S.A., 1953 Compilation (P.S.). **Garcia v. J. C. Penney Co.**, 52 N.M., 410, 200 P.2d 372. Opinion No. 64-91. Since the thirtieth day preceding the election falls on a Sunday (April 3), the registration books are to be closed at five o'clock P. M. on April 4, 1966. Opinion No. 4482 (1944).

Turing specifically to your question, we note that Section 3-2-14, N.M.S.A., 1953 Compilation provides for "one-day" registration clerks for outlying precincts who work one day only, to-wit: "On Monday of the fourth week preceding the date of the primary election." This date also is April 4, 1966.

It would seem unreasonable to require that these special registration clerks who register persons in outlying precincts for one day only must have the registration affidavits in the county clerk's office by 5 o'clock on the one day that they work. In many instances they have to drive miles to the county clerk's office. However, when the "one-day" registration clerks file the affidavits of registration, the county clerk must make certain that the date certified thereon by the notary public is no later than April 4, 1966.

Registration affidavits taken by any person other than the one-day registration clerks must be in the county clerk's office by April 4, 1966, if the person so registered is to be allowed to vote in the primary election on May 3, 1966.