

## Opinion No. 23-3679

March 5, 1923

**BY:** MILTON J. HELMICK, Attorney General

**TO:** Requested by: Hon. John H. Hull, State Senator, Santa Fe, New Mexico.

**The Sixth Session of the Legislature Expired at Noon on March 9, 1923.**

**The First Legislative Day Commences at Noon and Expires at Midnight.**

### OPINION

{\*24} Inquiry is made as to when the present session of the Legislature will expire. The question is governed by sections 5 and 14 of Article 4 of the Constitution; the former providing that sessions of the Legislature shall begin at 12 o'clock noon on the first day and the session shall not exceed sixty days, and the latter providing that on the final day adjournment shall be had at 12 o'clock noon. It would not at all be unreasonable to apply to these constitutional provisions the rule of statutory construction contained in sub-section 7 of section 5424 Code of 1915, to the effect that in computing time the first day should be excluded and the last included. While the foregoing rule applies under "statutory construction" it might be a safe guide in construing the constitution as well and if such construction were adopted it would result in the adjournment of the Legislature at 12 o'clock noon on next Saturday, March 10.

There is little satisfactory judicial authority on this question to be found, and the construction of such constitutional provisions relating to the length of legislative sessions is frequently determined by custom. (*Moog vs. Randolph* 77 Alabama 597). On March 11, 1915 former Attorney General Frank W. Clancy renders an opinion, which is found at page 56 of the opinions of the Attorney General for 1915-1916 construing these constitutional provisions. In this opinion he says that since 1880 it has been the custom, both in the territory and state of New Mexico to compute the length of the legislative session according to the method detailed in his opinion. Assuming this to have been the custom, and without attempting to review the various legislative sessions since that time, I think the conclusion reached by Mr. Clancy is correct. He held that the first legislative day commences at noon and expires at midnight. The application of this rule to the present case fixes next Friday as the last day and therefore it is my opinion that the present legislative session expires at noon on March 9, 1923.