

## Opinion No. 44-4482

March 16, 1944

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Robert W. Reidy, Assistant District Attorney, Albuquerque, New Mexico

In your letter dated March 15, 1944, you request an opinion concerning four questions. First, whether the County Clerk should keep her office open on Sunday, May 7, 1944, or whether the voters may also register on the following Monday, which would be May 8.

Section 1-202, subsection (7) of the 1941 Compilation provides as follows:

"In computing time, the first day shall be excluded, and the last included, unless the last falls on Sunday, in which case the time prescribed shall be extended so as to include the whole of the following Monday."

Section 56-217 of the 1941 Compilation provides that the County Clerk shall receive affidavits of registration up until 5:00 p. m. on the 30th day preceding any election at which the registration books are to be furnished. Since the last day for registration before the primary falls on Sunday, I am of the opinion that Section 1-202 above quoted would apply, and that the County Clerk should receive affidavits of registration until 5:00 p. m. on May 8, of this year.

Your second question raises a question relative to conflicting provisions in the registration law. Section 56-217 above mentioned requires the closing of the registration books on the 30th day before election. Section 56-212 provides for a one day registration by registration clerks in precincts more than seven miles from the precinct in which the county seat is located, under this language:

"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 \* \* \*"

Monday of the fourth week preceding the date of the primary election falls on May 8, and in order to construe the two statutes together, it is necessary that the registration clerks act on that date in the outlying precincts. Thus, it appears that registration may be made either at the County Clerk's office, or in outlying precincts with the registration clerks up until May 8, 1944, for the primary election.

Your third question involves the final date for changing party affiliation. Section 56-223 of the 1941 Compilation provides in part as follows:

"Provided, however, no person shall be entitled to change his party affiliation, or designate such party affiliation after the Governor has issued the proclamation for the

primary election until after the primary election, and then only until the 30th day before any other election at which registration of voters is required."

Section 56-808 of the 1941 Compilation, Pocket Parts, provides in part as follows:

"It shall be the duty of the Governor of the State of New Mexico, by public proclamation issued by him and filed with the Secretary of State of the State of New Mexico, on the first Monday in April of each even numbered year, to call a primary election \* \* \*."

Since the Governor's proclamation may be made and filed any time during the day on April 3, and it would be impossible for the various County Clerks to ascertain the exact hour and minute such proclamation was made and filed, it would appear that Section 56-223 contemplates that change of party affiliations may be made at any time up until the close of regular office hours on April 3, 1944.

Your fourth question is whether a notary public may secure registration blanks from the County Clerk and take them out and register people in different precincts, and then return the completed registration affidavits. Opinion No. 4220 answers this question to the effect that although the County Clerk, or his deputies, may not solicit registrations outside the office, there is nothing to prohibit the County Clerk from delivering registration blanks to a notary public, who may fill them out and acknowledge the same in any precinct. and return the completed original and duplicate affidavits to the County Clerk. For your information, I am enclosing a copy of this former opinion.

By C. C. McCULLOH,

First Asst. Atty. General