

OPINION
56-48

March 20, 1956 (OPINION)

ELECTION LAWS

RE: Filing of Petitions, Computation of Time

This is in reply to your letter of March 16, 1956, in reference to the requirement for filing petitions for nomination of elective officials in municipalities "at least twenty days prior to the holding of the election". This provision is contained in section 40-2107 of the North Dakota Revised Code of 1943.

In determining the twenty days, we must look to section 1-0215 of the North Dakota Revised Code of 1943 which reads as follows:

"COMPUTATION OF TIME. The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last is a holiday, and then it is excluded."

It is the opinion of this office that the rule for the computation of time defined in section 1-0215 is applicable; that in computing the number of days, election day should be included and the day on which the petitions are filed excluded. This ruling was expressed by the Supreme Court of North Dakota in *Phillips v. Johnson*, 40 N.D. 781, 197 N.W. 879.

Elections are set for April 2, 1956, in cities operating under the council form of government. Nominating petitions in such cities must be filed on or before March 13, 1956. City elections under the commission form are scheduled for April 3, 1956. Nominating petitions in such cities must be filed on or before March 14, 1956.

You also raise a question as to information included in the 1956 Election Calendar which has been issued by the Secretary of State. Your letter reads, in part, as follows:

"The Election Calendar sent out by the Secretary of State also appears to contradict itself. Under the heading, 'Primary Election,' it is stated that county and legislative candidates must file not later than May twenty-six. Under 'Constitutional Amendments Initiative, etc.' it states: 'Proposed constitution amendments or measures to certified by Secretary of State to County Auditors not less than thirty days before election: May 28 or October 6, 1956.'"

We agree with your conclusion that the last day for filing petitions for state, judicial and congressional offices; county and legislative offices; and constitutional amendments or measures must necessarily fall on the same day since the thirty day limitation applies in all cases. The last day for filing any such petitions for the 1956 primary election is May 26, 1956.

LESLIE R. BURGUM

Attorney General