

**VOLUME NO. 35****Opinion No. 36**

**ELECTIONS — General, federal elections included; ELECTIONS — Primary, federal elections included; ELECTIONS — Federal election, definition of; FEDERAL ELECTIONS — United States Senators and Representatives included. Section 23-2601, R.C.M. 1947.**

**HELD: 1. A general election for the election of members of the United States House of Representatives and members of the United States Senate is a federal election.**

**2. A primary election for the nomination of candidates for the office of United States Senator and United States Representative is a federal election.**

November 20, 1973

Honorable Frank Murray  
Secretary of State  
State Capitol  
Helena, Montana 59601

Dear Mr. Murray:

You have asked for my opinion concerning the following questions:

1. Is a general election for the election of members of the United States House of Representatives and members of the United States Senate a federal election?
2. Is a primary election for the nomination of candidates for the offices of United States Senator and United States Representative a federal election?

You indicate that section 23-3016, Revised Codes of Montana, 1947, requires the registrar to close the registration of electors thirty days before any federal election. You further state that you are unable to find a definition of "federal election" in the Montana statutes.

Since the phrase "federal election" is not specifically defined by statute or judicial decision in Montana, its meaning must be determined by the usual and

ordinary rules of grammatical construction. **Jay v. School Dist. No. 1**, 24 Mont. 219, 61 Pac. 250 (1900).

Section 23-2601, R.C.M. 1947, defines "election" as follows:

(1) Election means a general, special, primary nominating, municipal election, or an election in a school district.

**Black's Law Dictionary**, Revised Fourth Edition (1968), p. 740, defines the adjective "federal" as follows:

Belonging to the general government or union of states. Founded on or organized under the constitution or laws of the United States.

By applying the general definition of "federal" to the statutory definition of "election", it appears that any general election or primary nominating election for officeholders of the government of the United States is a federal election.

The Kentucky Court of Appeals faced a similar question in the case of **Steele v. Perry County**, 299 Ky. 827, 187 S.W.2d 302 (1945). In that case a local option election adopting prohibition was challenged on the grounds that it was a federal election and that absentee ballots required by statute for such elections had not been provided by local election officials. The court answered this contention as follows at page 305:

The statute relied on applies solely to any election for electors of President and Vice President of the United States, United States Senators, and Representatives in Congress.

**THEREFORE, IT IS MY OPINION:**

1. A general election for the election of members of the United States House of Representatives and members of the United States Senate is a federal election; and

2. A primary election for the nomination of candidates for the offices of United States Senator and Representative is a federal election.

Very truly yours,

**ROBERT L. WOODAHL**  
Attorney General