

No. 447

**ELECTIONS—PRIMARY ELECTION—HOLIDAYS—  
LEGAL HOLIDAYS**

**Held: Primary election day—July 21, 1942—is a legal holiday within the meaning of Section 10, Revised Codes of Montana, 1935.**

Honorable Sam C. Ford  
Governor of Montana  
Capitol Building  
Helena, Montana

July 17, 1942.

Dear Governor Ford:

You have asked this office if primary election day, July 21, 1942, is a legal holiday within the meaning of Section 10, Revised Codes of Montana, 1935.

Section 10, Revised Codes of Montana, 1935, provides "every day on which a general election is held throughout the state" shall be a legal holiday.

The Montana Supreme Court has been called upon to construe the term "general election," as it is used in Section 2, Article XIII, Montana Constitution, which provides no debt or liability shall be created under certain circumstances unless the law authorizing it shall have been submitted to the people "at a general election." The Court defined the term as follows:

"We think, considering the subject matter of the section, the term 'general election' does not mean necessarily the general biennial election. . . . We think the 'general election' named means a state-wide election at which all the people entitled to vote may vote upon a question affecting them as a whole."

*Arps v. State Highway Commission*, 90 Mont. 152, 159, 300 Pac. 549.

*State ex rel. Diederichs v. State Highway Commission*, 89 Mont. 205, 214, 296 Pac. 1033.

The approaching primary election is state-wide. All the people entitled to vote may vote upon the question of who shall be candidates in the general election in November.

See Opinion Number 577, Volume 15, Report and Official Opinions of the Attorney General, page 400, where Attorney General Nagle ruled primary election day is a legal holiday. See also Volume 6, page 376, and Volume 14, page 70.

It is therefore my opinion the primary election day—July 21, 1942—is a legal holiday within the meaning of Section 10, Revised Codes of Montana, 1935.

Sincerely yours,

HOWARD M. GULLICKSON  
Attorney General