



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Clifford B. Jones, President
Texas Technological College
Lubbock, Texas

Dear Sir:

Opinion Number Q-4946
Re: Whether credit in R.O.T.C.
Military Science may be ac-
cepted in lieu of three hours
of Government for teacher's
certificate.

We have received your letter of recent date which reads, in part, as follows:

"The 46th Legislature (H.B. 617, Section 4) provides that all students entering college after September 1, 1937, should have 6 semester hours of Government for a degree from a state tax supported educational institution, or for a state teacher's certificate. Provision likewise was made that students with 3 semester hours' credit in R.O.T.C. Military Science should be allowed to count the same in lieu of 3 hours of the required 6 hours in Government. Many of our students have availed themselves of the alternative, and in view of the fact that some question has arisen concerning the acceptance of the alternative for a state teacher's certificate, it will be appreciated if you will kindly advise whether or not under existing law the alternative provision is acceptable for a state teacher's certificate."

Section 4 of Article 2663b-1, Vernon's Annotated Civil Statutes, provides as follows:

Honorable Clifford E. Jones, page #2

"No person hereafter shall be certified to teach in the public schools of the State of Texas until he has secured credit for the course in both Federal and State Constitutions of the grade of instruction upon which he is applying for the certificate, that is either of the subcollege or of the college work; or in lieu thereof shall have passed an examination set by the State Superintendent of Public Instruction on the Constitutions of the United States and Texas; provided, that any person who has to his credit in any standard college or university of Texas as much as six (6) hours of American Government shall be deemed to have met the requirements of this Section. Provided further, that after September 1, 1937, no student shall be certified for graduation from any tax supported State educational institution with the award of a college degree unless such student shall have completed theretofore in a standard college or university at least six (6) hours for credit in the governments of the State of Texas or of the United States of America, or the equivalent in both; or shall have completed at least three (3) hours of said credit in Government and at least three (3) hours of credit in a course in Military Science as provided in an approved senior R.O.T.C. unit. As amended Acts 1937, 45th Leg., p. 482, ch. 244, sec. 1; Acts 1939, 46th Leg., p. 284, sec. 1." (Emphasis added).

It was held in Opinion No. O-2512-A that the underscored part of the above quoted provision is unconstitutional because of the insufficiency of the caption of House Bill 291, Acts 1937, 45th Leg., R. S., ch. 244, p. 482. A copy of such opinion is enclosed herewith for your consideration.

Section 4 was amended once more by House Bill 617, Acts 1939, R. S., ch. 14, p. 284, which bill added the provision in which you are interested. Such provision is that

Honorable Clifford B. Jones, page #3

part of the quoted article which appears after the underscored part. It was held in Opinion No. O-2512-A that as the caption of the 1939 Act was silent as to the underscored part of Article 2663b-1, the same was not included. We quote the following from Opinion No. O-2512-A:

"Consequently, it is our opinion and you are respectfully advised that the only valid provisions in Article 2663b-1, Vernon's Annotated Civil Statutes, relative to the requirement of completion of courses in government as a prerequisite to graduation from a State tax-supported college or university are those contained in Section 2 of the Article. This section requires that all State tax-supported colleges and institutions give courses of instruction in American government with special emphasis upon the Constitution of the United States and of Texas for at least three (3) fifty-minute periods per week for not less than twelve consecutive weeks, or its equivalent. No student may graduate from any State tax-supported college or university who has not passed a satisfactory examination in such college or university upon such course or in some other college or university." (Emphasis added).

You will notice that Opinion No. O-2512-A is concerned with the prerequisites to graduation from a State tax-supported college or university. Without touching on the question whether or not the 1939 Act effectively incorporates into our statutes the part thereof relating to 3 hours of Military Science, it is our opinion that said part would apply only to graduation prerequisites and not to the issuance of teachers' certificates.

In the first place, the provision is placed in the proviso clause relating to graduation requirements. In the second place, the emergency clause of the 1939 Act reads, in part, as follows:

Honorable Clifford B. Jones, page #4

"The fact that many students who have already earned credit in Military Science and are nearing graduation will be required to lengthen their courses to take the additional hours in Government as now required creates an emergency * * *".
(Emphasis supplied).

In line with the fundamental rule of statutory construction that provisos and exceptions are strictly construed and because we think that the legislative intent is clear, it is our opinion that the part of Article 2663b-1, which reads, "or shall have completed at least three (3) hours of said credit in Government and at least three (3) hours of credit in a course in Military Science as provided in an approved senior R.O.T.C. unit", even if valid, would have no application to that part of Article 2663b-1 relating to issuance of teachers' certificates.

In Opinion No. O-2512-A it was held that the only valid provisions in Article 2663b-1 relating to the requirement of the completion of Government courses as a prerequisite to graduation from a State tax-supported college or university are those contained in Section 2. You are now advised that credit in R.O.T.C. Military Science may not be substituted for credit in American Government under that part of Article 2663b-1 relating to the prerequisites to the certification of teachers which reads: "provided, that any person who has to his credit in any standard college or university of Texas as much as six (6) hours of American Government shall be deemed to have met the requirements of this Section."

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *George W. Sparks*
George W. Sparks
Assistant

APPROVED NOV 10, 1942

Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

GWS/s

