



**THE ATTORNEY GENERAL
OF TEXAS**

GROVER SELLERS

ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable J. E. Winfree, Chairman
Rules Committee
House of Representatives
Forty-ninth Legislature
Austin, Texas

Dear Mr. Winfree:

Opinion No. O-6617

Re: Whether or not a proposed constitutional amendment authorized by H.J.R. No. 13 to be submitted on the fourth Saturday of August, 1945, may be legally submitted at the General Election in 1946 without further action on the part of the Legislature.

We beg to acknowledge receipt of your request for an opinion upon the above subject matter, as follows:

***.

"H.J.R. No. 13 relative to the \$35 Million Dollar ceiling on Old Age Pensions and other matters has passed both the House and the Senate. This proposed Constitutional Amendment is to be submitted to the people of Texas on the 4th Saturday of August according to the terms and provisions of the Resolution itself.

"It seems that a question has arisen since publication has not been made in all the Counties of Texas, and this question goes directly to the validity of the proposed election.

"If this matter can not be legally submitted in August 1945, can this proposed Constitutional Amendment be legally submitted to the people and voted on by them at the General Election of 1946 without further action on the part of the Legislature.

***."

It is the studied opinion of this Department that your inquiry should be answered in the negative.

Section 1 of Article XVII of the Constitution, insofar as

pertinent, reads as follows:

***. The Legislature, at any biennial session, by a vote of two-thirds of all the members elected to each House, to be entered by yeas and nays on the journals, may propose amendments to the Constitution, to be voted upon by the qualified electors for members of the Legislature, which proposed amendment shall be duly published once a week for four weeks, commencing at least three months before an election, the time of which shall be specified by the Legislature, in one weekly newspaper of each county in which such a newspaper may be published; ***."

In our opinion No. O-6612 this day released to the Honorable Claude Isbell, Secretary of State, involving this Section of the Constitution with respect to the provision for publication of notice, we held that the provisions of the Constitution were mandatory, for which we cited an opinion of this Department of more than twenty years' standing, when the late Judge Keeling was Attorney General of Texas, holding the same thing.

It will be seen from the portion of Section 1 above quoted that the time of the holding of an election to determine the adoption of a constitutional amendment "shall be specified by the Legislature." If in the present case the amendment should be submitted, at the general election to be held throughout the State in 1946 without further action by the Legislature, it would be at a time not "specified by the Legislature", and therefore at a time not authorized by the Constitution which provides the sole method for amending the Constitution. It is not ours to speculate as to the reason for this specific requirement, but it is ours to obey the plain unambiguous language of the Constitution itself. It has, we believe, been the universal construction of the Legislature itself in submitting such amendments to specify the time of the election, whether the same be at a general or special election.

Trusting that what we have said satisfactorily answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

s/ Ocie Speer

APPROVED MAY 30, 1945
s/ Grover Sellers
ATTORNEY GENERAL OF TEXAS

By
Ocie Speer
Assistant