

Opinion No. 51-5398

August 20, 1951

BY: JOE L. MARTINEZ, Attorney General

TO: Mr. Jack E. Holmes Director, Legislative Council Service Santa Fe, New Mexico

{*101} This is in reply to your letter of August 7 relative to the calling of a special session of the Legislature.

Your question was: During a special session of the Legislature convened in conformity with § 6, Art. 4 of the Constitution by the Governor, upon certification to him by three-fifths of the members of the Legislature or convened by the legislators upon failure of the Governor to act, whether or not the Legislature could act upon proposed constitutional amendments.

Your question requires that the amendment adopted in 1948 of § 6, Art. 4 be construed along with § 1, Art. 19 and § 5, Art. 19 of our State Constitution. In § 6, Art. 4, N.M. Const., with reference to the session convened by the Governor after certification of an emergency by the required number of legislators, states:

"* * * it shall thereupon be the duty of said Governor and mandatory upon him * * *, to convene said legislature in extraordinary session **for all purposes**; * * *"

The same section, with reference to a session convened by the legislators upon failure of the Governor to do so, states:

"* * * said legislature may convene itself in extraordinary session, as if convened in regular session, **for all purposes**, * * *"

Sec. 1, Art. 19 states:

"Any amendment or amendments to this constitution may be proposed in either house of the Legislature at any regular session thereof; * * *"

Sec. 5, Art. 19 states:

"The provisions of Sec. 1 of this article shall not be changed, altered, or abrogated in any manner except through a general convention called to revise this constitution as herein provided."

To answer your question affirmatively, it would be necessary to decide that the words "for all purposes" in § 6, Art. 4 of the Constitution are broad enough to mean all the usual objects of legislation as well as the proposing of constitutional amendments. In addition to giving the words that meaning, we must also decide that the amendment

adopted in 1948 which contained those words, effectively supersedes or abrogates the provisions of § 1, Art. 19 which provide that the proposal of constitutional amendments by the Legislature be done at regular sessions.

In 16 C.J.S. 62, under the subject of "Constitutional Construction", it is stated:

"It is a recognized rule of construction that, in ascertaining both the intent and general purposes, as well as the meaning, of a constitution or a part thereof, it should be construed as a whole. As far as possible, each provision should be construed so as to harmonize with all the others, yet with a view to giving effect to each and every provision insofar as shall be consistent with the construction of the instrument as a whole.

"The presumption and legal intendment is that each and every clause in a written constitution has been inserted for some useful purpose, and courts should avoid a construction which would render any portion of the constitution meaningless. Different sections, amendments, or provisions relating to the same subject, or {**102*} in *pari materia*, are to be construed together and read in the light of each other."

Applying the foregoing to the problem at hand, it is my opinion that the construction which will resolve all incompatibility of language, and which will give the most reasonable meaning to the words "for all purposes", is this: when the extraordinary sessions are convened by the certificate method instead of by a proclamation initiated by the Governor alone, that the legislators are to be free to consider any proper subject of legislation not specifically prohibited from consideration at a special session. This greater latitude of consideration was granted the Legislature because of the fact that when a session is convened at the legislators' initiative, it would be most unwise to limit them, as they would be when the Governor convenes the session of his own volition, to the consideration of only the subject for which the Governor proclaims the session to have been called.

This construction is necessary to harmonize the first two constitutional provisions which I have set forth in this letter and is in fact unavoidable in view of the third constitutional provision here considered. This provision, § 5, Art. 19, provides a specific method for the amendment of § 1, Art 19. I must inescapably conclude that the 1948 amendment providing for a new method of calling emergency sessions of the Legislature did not and could not effectually abrogate the limitation of § 1, Art. 19 as to consideration of constitutional amendments by the Legislature.

In my opinion constitutional amendments may be proposed only at regular sessions of the Legislature convened pursuant to the requirements of § 5, Art. 4 of the Constitution, which sets out the time for convening and the rules for conducting the regular biennial sessions of our Legislature.

I trust that this answers your inquiry fully.