

Opinion No. 37-1612

April 22, 1937

BY: FRANK H. PATTON, Attorney General

TO: Mrs. Elizabeth F. Gonzales Secretary of State Santa Fe, New Mexico. Attention:
Mr. Marcelino Gutierrez

{*81} You have consulted this office upon the question of whether House Joint Resolution No. 26, which is the proposal to amend the Constitution of the State of New Mexico and which provides for the appointment of judges to hold court throughout the State by the Chief Justice of the Supreme Court when no district judge may be available within a reasonable time, shall be submitted to the voters of this State at the special election on September 21st of this year, or whether same shall be not voted upon until the general election in November of 1938.

The resolution under consideration provides in Section 2 thereof as follows: "The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the general election in November, 1938."

Other proposals for constitutional amendments were passed by the recent session of the legislature, none of which carry any specific provision as to the date upon which same shall be voted upon.

The Constitution of the State of New Mexico provides that constitutional amendments shall be voted upon at the next regular election after the adjournment of the legislature, or at such special election to be held not less than six months after the adjournment of said legislature at such time as said legislature may by law provide.

Seeking to place this constitutional provision in effect the legislature has provided by Chapter 117 of the Laws of 1937 for a special {*82} election to be held upon the 21st day of September, 1937, for the purpose of voting upon these amendments. Section 1 of this Act contains this language:

"A special election shall be held throughout the State of New Mexico on the 21st day of September, 1937, for the purpose of approving or rejecting **any and all** (underscoring ours) proposed amendments to the Constitution of the State of New Mexico, which shall have been submitted to the people by the Thirteenth Legislature of the State of New Mexico."

The question arises as to whether the words underscored above "any and all" include the court amendment, which is House Joint Resolution No. 26, in view of the fact that that resolution specifically provides, as above stated, that the vote upon same shall be at the general election in November, 1938.

It is my belief that the language used by the legislature in said resolution proposing such amendment specifically signifies a legislative intention that such amendment shall be voted upon at the general election and that the use of the language in said Chapter 117 "any and all" is not inclusive of the said court amendment.

This reasoning is upon the theory of law that specific statutory provisions are controlling when same are in conflict with general statutory provisions and while this resolution under consideration is not a statute, it is my belief that the same principle of law should be applied.

We may say at this time that we understand all other resolutions proposing constitutional amendments were signed and approved by the Governor of the State of New Mexico, whereas said House Joint Resolution No. 26 was not so signed and approved by the Chief Executive.

In our opinion, this is entirely immaterial and there is no statutory or constitutional requirement authorizing the Governor to attach his signature to resolutions of the legislature. He does not have to sign, approve, or reject same as he does in the case of the enactment of statute.

In addition to the above, the thing to be sought in the interpretation of statutes is the intent of the legislature. This statute calling for an election was passed by the Senate on March 5th and by the House on March 11th. The court resolution was passed by the Senate on the 12th day of March. Had it been the intention of the legislature to include this last resolution with the others it would have stricken Section 2 thereof in its entirety.