

## Opinion No. 51-5355

April 18, 1951

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** Honorable W. T. Scoggin, Jr. District Judge Las Cruces, New Mexico

{\*35} I have received your request for an opinion regarding House Bill No. 45 which was enacted during the 1951 Legislature. You ask when this bill will go into effect and particularly when the names of the women jurors picked would be put into the jury box.

House Bill No. 45 which deals with a provision to permit women to serve on juries was an amendment to Section 30-101 and 30-103 of the 1941 Compilation. This bill did not carry the emergency clause and therefore, in accordance with a prior ruling of this office under provisions of Art. 4, Sec. 23 which {\*36} states that laws shall go into effect 90 days after the adjournment of the legislature enacting them, this law would go into effect at one stroke after midnight on June 9, 1951.

Section 2 of House Bill 45 amends Section 30-103 of the 1941 Compilation and it states as follows:

Within thirty days after the passage of this act, it shall be the duty of the clerk of the district court of each county to prepare and certify under his hand and seal, for the use of the jury commission provided by this act in making up its list of jurors to be put in the jury box for service in the district courts, a true and complete list of all voters who voted at the last general election in his county, from the poll books used at such election, and thereafter when a new jury list is to be prepared by a jury commission, to prepare a like list of all voters who voted at the last general election his his county as appears by the poll books of such election; provided, any error made by the clerk in failing to include all the voters, shall not invalidate such lists or any jury selected therefrom."

It is interesting to note that in the above quoted section that the only change or amendment to the section was the deleting of the word "male" in reference to all voters. The term "within thirty days after the passage of this act, it shall be the duty of the clerk of this district court \* \* \*" is exactly the wording in the original act. The question, therefore, arises -- what does "within thirty days after the passage of this act" mean? If we took it literally, it might mean thirty days after the legislature voted upon and the governor signed the bill. However, that is not the legal definition of the word "passage". In 59 C.J., page 560, it is stated:

"Meaning of Terms. (a). 'Passage'. The word 'passage' used in connection with legislative enactments refers to a compliance with all forms necessary to give an enactment force and validity."

In the case of People vs. Coffin, 117 N.E. 85, 279 Ill. 401, at page 87, the Court in defining "passage" states as follows:

"The word 'passage' used in connection with a legislative enactment refers to a compliance with all the forms made necessary by the law or the constitution to give the enactment force and validity. A legislative act is passed only when it has gone through all the forms required by the process of legislation to make it complete."

Since Art. 4, Section 23 of the Constitution of the State of New Mexico states that "all laws **shall** go into effect 90 days after the adjournment of the legislature enacting them \* \*", this particular act, under the constitution, could not be given any force and validity until 90 days after adjournment of the Legislature, which would be June 9, 1951.

Therefore, it is my opinion that the term "within 30 days after the passage of this act" means within thirty days after a stroke after midnight on June 9, 1951.

It is further my opinion that since the clerk of the district court shall within thirty days prepare and certify the list of jurors (male and female), it is mandatory upon the clerk to prepare such a list by 11:59 p.m. on Monday, July 9, 1951.