

Opinion No. 51-5336

February 23, 1951

BY: JOE L. MARTINEZ, Attorney General

TO: Honorable Calvin Horn Speaker, House of Representatives Santa Fe, New Mexico

{*12} I am in receipt of your request for an opinion as to whether resolutions or memorials may be introduced after the 45th day of the Legislature as set forth in Article IV, Section 19 of the State Constitution.

Article IV, Section 19 provides as follows:

"No bill shall be introduced at any regular session of the Legislature subsequent to the 45th legislative day, except the General Appropriation bill, bills to provide for the current expenses of government, and such bills as may be referred to the Legislature by the Governor by special message specifically setting forth the emergency or necessity requiring such legislation."

This above amendment was adopted by the people on November 8, 1932. However, Article XIX, Section 1 was adopted by the people on November 7, 1911 and states as follows:

"Any amendment or amendments to this Constitution, may be proposed in either house of the Legislature at any regular session thereof; and if a majority of all the members elected to each of the two houses voting separately shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals with the ayes and naves therein . . ."

It would appear from the wording of Article XIX, Section I that any amendment may be proposed at any regular session thereof, which regular session by virtue of Article IV, Section 5 begins at 12 Noon on the second Tuesday of January after each general election and remains in session not to exceed 60 days. However, it is contended that Article IV, Section 19, which was adopted later than Article XIX, Section 1, amends Article XIX, Section 1 to limit introduction to 45 days. This contention should not be followed, however, for the adoption in 1932 of Article IV, Section 19 merely amends the original section which provided two 30-day sessions and does not appear to in any way amend by implication Article XIX, Section 1.

Secondly, Article IV, Section 19 says "no bill shall be introduced." The definition of a bill liberally construed refers to that document {*13} which when passed by both houses and signed by the Governor becomes an act. Whereas a resolution and memorial does not come into that category.

The above proposition is borne out by the Constitution in Article IV, Section 20 wherein it states: "Immediately after the passage of any bill or resolution, it shall be enrolled and engrossed and read publicly in full in each house. . . ."

Further, Article IV, Section 22 states: "Every bill passed by the Legislature shall, before it becomes a law, be presented to the Governor for approval." It is a well-settled principle of law that memorials and resolutions are not presented to the Governor for his signature but become effective upon the passage in both houses.

Article IV, Section 15 is another section which distinguishes between a bill and a resolution wherein it states: ". . . The enacting clause of all bills shall be: 'Be It Enacted by the Legislature of the State of New Mexico'."

In *State v. Delesdenier*, 7 Texas 76, the Court held that a resolution or a memorial need not contain the phrase "Be It Enacted by the Legislature of," for that enacting clause was intended only for bills and not for resolutions or memorials. The constitutional provision in Texas is similar to the one in New Mexico.

Thirdly, in the rules of the House, starting on page 68 of the Directory of the Twentieth State Legislature on through pages 69, 70 and 71, a distinction is made between a bill, resolution and memorial. However, Rule No. 62, on page 71, states no bill shall be introduced at any regular session of the Legislature subsequent to the 45th legislative day . . . without making any reference to a resolution or memorial.

In view of the foregoing, it is my opinion that memorials and resolutions could be introduced after the 45th legislative day.