

OPINION
46-85

March 28, 1946 (OPINION)

ELECTIONS

RE: Primary a General Election

This will acknowledge the receipt of your letter of March 25, 1946, in which you request the opinion of this office as to whether or not the June primary election is a general election within the intent and purpose of the term "general election" as used in section 4-0231 of the 1943 Revised Code.

It is my opinion that the June primary is a general election. It is state-wide and is held at regular intervals fixed by statute. An election other than a general election is a special election and it is, of course, self-evident that the regular primary election is not a special election.

There is ample authority to sustain this view. The following are representative:

"Elections for definite purpose and regularly recurring at fixed intervals without any other requirements than lapse of time, are 'general,' while all other elections are 'special elections.'" Hudson v. Cumard, 33 P. 2d, 591, 594, 44 Ariz. 7, Words and Phrases, Vol. 18, p. 211.

"In determining whether an election is special or general, regard must be had to subject-matter as well as date of election, and if an election occurs throughout state uniformly by direct operation of law, it is a 'general election,' but, if it depends on employment of special preliminary proceeding peculiar to process which may or may not occur, and the election is applicable only to a restricted area less than whole state, it is a 'special election.'" Norton v. Coos County 233 P. 864, 113 Or. 618, Words and Phrases, Vol. 18, p. 211.

"Any elections which are not regularly held for election of officers or for some other purpose which shall come before citizens at regular fixed intervals are 'special elections,' while 'general elections' are those held on fixed dates for choosing of officers for regular periods of time, and at which voters may exercise their choice by casting their ballot." Norton v. Letton, 111 S.W. 2d, 1058, 1055, 217 Ky. 353, Words and Phrases, Vol. 18, p. 211.

"A regular or general election is one which recurs at stated intervals fixed by law; it is one which occurs at stated intervals, without any superinducing cause other than the efflux of time _ _ _." A special election, on the other hand, is one that arises from some exigency or special need outside the usual routine, a measure or proposition for adoption or rejection. In application of the foregoing rules, it is held

that the term 'general election' embraces a primary election occurring at regular intervals . . ." 18 Am. Jur. sec. 5 p. 181.

It is, therefore, my opinion that the proposition of purchasing or leasing land in the name of the county for the purpose of a county fair may be submitted to the voters of Williams County at the primary election in June.

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