



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Hon. V. C. Goodman,  
Vice-Chairman of the Committee  
created by House Simple Resolu-  
tion 232,  
House of Representatives,  
Route 1, Box 423,  
Ft. Worth, Texas

Dear Sir:

Opinion No. 0-5558

Re: Validity of House Simple  
Resolution No. 323, with regard  
to the continuation of legis-  
lative investigation committee  
activities after the adjournment  
of the 48th Legislature.

This will acknowledge receipt of your letter of recent date requesting the opinion of this department on the above styled subject. We quote in part from your letter as follows:

"I desire to have an opinion as to the validity of House Simple Resolution 232.

"I have had several law firms in Fort Worth to pass on this resolution. They tell me that House Simple Resolution 232 is not a valid resolution after the close of the 48th Session of the Legislature.

"They also gave me an opinion on House Simple Resolution 306, a supplement to House Simple Resolution 232, which supplement appropriated \$2,500.00 for the continuance of this committee. They state the wording of the supplement did not make House Simple Resolution 232 valid inasmuch as it was as a basis for the appropriation House Simple 232.

"The reason I want this opinion is that a great deal of criticism is developing because of the inactivity of this committee. The public is criticizing all members of this committee. We are having to take this crit-

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icism because the Chairman will do nothing about it and if this continues, I shall be compelled to ask for dissolution of this committee.

"It is a shame that the State's money should be squandered in this manner and most especially that such a need investigation is not being made.

"I will appreciate your opinion on the validity of this resolution. Personally, I do not believe the committee has any authority whatsoever to act after the Session. I want your opinion in case I cannot straighten this out and get something done."

On May 3, 1943, House Simple Resolution No. 232, providing for a committee to investigate the sale of certain meat from dead, cancerous and other sick animals, was offered and adopted by the House of Representatives. This resolution appears on pages 2623 and 2625 of the House Journal, Texas 48th Legislature. This committee was empowered to hold investigations, summons witnesses, compel their attendance, punish for contempt, make their own rules of procedure and report their findings to the Legislature during the 48th Session or any future session. On the same day unanimous consent was granted to increase the members of the committee from five to eight and the Speaker of the House appointed the members of the committee. See page 2639 of House Journal.

On May 11, 1943, the committee appointed by virtue of House Simple Resolution No. 232, reported to the House the work that had been done by the committee. This report appears on pages 3061 to 3063 of the House Journal, the contents of which attempted to show the deplorable conditions existing in the stockyards and slaughtering plants of this State. The report concluded with the recommendation that the committee be instructed to make further investigations in an effort to formulate adequate legislation that will stop the sale of diseased meat for human consumption. On the same day, House Simple Resolution No. 306 was offered and adopted. It reads in part as follows:

"Be It Resolved that an appropriation of twenty-five hundred (\$2,500.00) dollars be appropriated

out of the contingent expense fund of the House of Representatives for the purpose of defraying the expenses of said committee after the 48th Legislature has adjourned, in order that said committee, operating under House Simple Resolution No. 232, may continue to investigate and bring to public attention such practices, in order that such practices may be stopped."

The Supreme Court of Texas in the case of *Terrell vs. King*, 118 Tex. 237, 14 S. W. (2d) 786, held that either House of the Legislature by its own resolution could create and authorize a committee to sit and act after adjournment of the session. We quote in part from the decision as follows:

"Since each house continues in existence after the end of a legislative session, as determined in *Ferguson v. Maddox*, 114 Tex. 93, 95, 96, 263 S. W. 888, and since each house is invested with independent responsibilities and duties, and is the sole judge of its own rules of procedure, we think the power of each house or of the Legislature cannot be denied to name committees to sit, either during sessions of the Legislature or in recess, for the purpose of gathering information considered requisite or helpful to enlightened or efficient legislation.

"The authority of each house to use legislative committees of inquiry and investigation is affirmed in *Cooley's Constitutional Limitations* (8th Ed.) at page 275, where the author says:

"Each house must also be allowed to proceed in its own way in the collection of such information as may seem important to a proper discharge of its functions and whenever it is deemed desirable that witnesses should be examined, the power and authority to do so is very properly referred to a committee, with any powers short of final legislative or judicial action as may seem necessary or expedient in the particular case."

This decision is also an expression of the recognized legislative practice in Texas.

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In Opin. No. O-95 this department held that a simple house resolution may create a committee and authorize it to sit and act after adjournment of the session but during the term of office of the Legislature.

House Simple Resolution No. 232 created a committee to make investigations into sales of diseased meat for human consumption and to report to the 48th Session of the Legislature or any future session. This is indicative of the fact that the committee was empowered to sit and act after adjournment of the present session, especially so in view of the limited time between the creation of the committee and the adjournment of the Legislature. We are thus of the opinion that House Simple Resolution No. 232 created a committee which could sit and act after the adjournment of the Legislature.

Assuming the committee created by House Simple Resolution No. 232 did expire upon the adjournment of the 48th Legislature, although we believe to the contrary, nevertheless, this committee was revived by House Simple Resolution No. 306 which extended the committee created by House Simple Resolution No. 232 to operate after the adjournment of the 48th Legislature and appropriated a certain sum out of the contingent expense fund of the House of Representatives for the purpose of defraying the expenses of the committee. We believe that a resolution can be revived by a subsequent resolution with reference only to its title without a recitation of its contents as required of a law, since the courts do make a distinction between a resolution and a law. See *Mosheim v. Rollins*, 79 S. W. (2d) 672, writ of error dismissed.

It is, therefore, the opinion of this department that House Simple Resolution No. 232, 48th Legislature, is a valid resolution and the committee created thereby may sit and act after the adjournment of the 48th Legislature up to the convening of the 49th Legislature.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By /s/ Fred C. Chandler  
Assistant

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APPROVED SEPT. 11, 1943  
Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS

By /s/ Robert O. Koch

APPROVED OPINION COMMITTEE  
By - G.W.B., Chairman