



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Mr. J. W. Brock  
County Auditor  
Wilbarger County  
Vernon, Texas

Dear Mr. Brock:

Opinion No. 0-7211

Re: Did the amendments to its charter adopted by the City of Vernon in October, 1945, prevent the City from holding another election to amend its charter for a period of two years?

We have given careful consideration to your letter, which reads as follows:

"Enclosed herewith you will find a printed copy of the Charter of the City of Vernon. Attached to the front cover of this Charter you will find a copy of the Official Ballot used in an election to amend said Charter. This election was held on October 16, 1945, and all propositions carried. The amendment was filed by the Secretary of State on November 28, 1945.

"It is now desired that an election be called for the purpose of divorcing the Vernon schools from municipal control.

"In view of Section 5 of Article 11 of our Constitution, and Article 1165 of our Statutes and the holding of the Court in the case of State vs. City Commission of San Angelo et al, 101 S. W. 2d 360, I submit to you the following questions:

"(1) Do the propositions adopted at the election on October 16, 1945, constitute an amendment to the Charter of The City of Vernon within the meaning of the Constitution and the Statutes:

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"If you have answered the foregoing question in the affirmative then please answer the following question No. (2).

"(2) In calculating the date from which the two year period runs, should October 16, 1945, be considered as the starting point, or should said starting point be November 28, 1945?

"(3) Can the Vernon schools be divorced from municipal control at any time before the end of two years from the date given in your answer to question No. (2)?

"(4) If you have answered question No. (3) in the affirmative, please cite the statutes and authorities to be followed."

It appears from the charter that the City of Vernon has taken all necessary steps to acquire exclusive control of its public free schools. By the amendments adopted on October 16, 1945, the City amended Article 6 of its charter to the extent that it authorized the City, as an independent school district, to issue negotiable bonds for the erection, equipment, repair and improvement of public free school buildings, and the acquisition of sites therefor. The City did not have this power before. It also amended Sections 1 and 2 of Article 7 of its charter in very material respects.

We think the amendments to the charter adopted on October 16, 1945, constitute such an amendment as comes within the meaning of Section 5 of Article 11 of our Constitution, and Article 1165 of our statutes, as same were construed by our courts in the case of State v. City Commission of San Angelo, 101 S. W. (2) 360.

In calculating the date from which the two-year period begins to run, it is our opinion that October 16, 1945, is the correct date. The election was held on the day the amendments were voted on by the citizens.

In reply to your question No. 3, as stated above, it appears that the City of Vernon, under its charter, has taken all necessary steps to acquire exclusive control of the public free schools within its limits. This being true, the only method by which the schools can be divorced from municipal control is by an amendment to its charter at an election held for

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said purpose. Under the authorities above cited, the charter cannot again be amended prior to October 16, 1947.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

*Geo. W. Barcus*

Geo. W. Barcus  
Assistant

*Carroll P. Ashley*  
MAY 9 1946  
ATTORNEY GENERAL  
GWB-MR

