

Amendments MUST be published the same way before two “general elections”

An amendment approved on November 2, 1909 changed Article VIII, section 2 to read:

"The **general election** shall be held biennially on the **Tuesday next following the first Monday of November in each even-numbered year**, but the General Assembly may fix by law a different day, two-thirds of all the members of each House consenting thereto: **Provided, that such election shall always be held in an even-numbered year.**"

This same November 2, 1909 amendment set the "**municipal election**" day as "**the Tuesday next following the first Monday of November in each odd-numbered year**", but the General Assembly may by law fix a different day, two-thirds of all the members of each House consenting thereto: **Provided, That such election shall always be held in an odd-numbered year**".

Article XVIII, "FUTURE AMENDMENTS" was not changed from 1874 until May 16, 1967, at which time only sections "(a)" and "(b)" were added. The first part of this Article was left as written in the 1874 Constitution and remains unchanged to date. **Clearly, since at least November 2, 1909, "general election" means, according to the Pennsylvania Constitution, the November election held on even-numbered years.**

In 1900, the Pennsylvania Supreme Court in *Commonwealth ex rel. v. Griest*, 196 Pa. 396, 404-406 (1900) clearly defined the six separate and distinct steps mandated by Article XVIII of the 1874 Constitution with respect to amending the Pennsylvania Constitution. The court starts the following on page 404 of its opinion:

"It will be observed that the method of creating amendments to the constitution is fully provided for by this article of the existing constitution. It is a separate and independent article standing alone and entirely unconnected with any other subject. Nor does it contain any reference to any other provision of the constitution as being needed, or to be used, in carrying out the particular work to which the 18th article is devoted. It is a system entirely complete in itself, requiring no extraneous aid, either in matters of detail or of general scope to its effectual execution. It is also necessary to bear in mind that the character of the work for which it provides. It is constitution making, it is a concentration of all the power of the people in establishing organic law for the commonwealth, It is not lawmaking, which is a distinct and separate function, but it is a specific exercise of the power of a people to make its constitution."

The court then when on to clearly explain the six specific step defined in Article XVIII on pages 405 and 406. These steps are as stated by the court in 1900:

"First, the amendment is to be proposed in the senate or house. Second, it must be "agreed to by a majority of the members elected to each house." Third, it must "be entered on their journals with the yeas and nays taken thereon." Fourth, in immediate sequence to the entry on the journals and as a part of the

same sentence, the article provides,

"and the secretary of the commonwealth shall cause the same to be published three months before **the next general election** in at least two newspapers in every county in which such newspapers shall be published."

It will be observed that the duty of the secretary of the commonwealth follows immediately upon the entry of the amendment on the journals of the two houses with the ye and nay vote of the members. There is no other action by any department of the state government that is either required or allowed, prior to the action of the secretary. And that action of the secretary is prescribed in mandatory language, thus, "And the secretary of the commonwealth shall cause the same to be published, "etc. He has no discretion in the premises. His action does not depend upon any other action whatever. It is his own, personal, individual and official duty, imperative in its character, and the very highest and gravest obligation because it is imposed by the constitution itself, and he can only discharge that duty by literally performing its terms. He cannot excuse himself for nonperformance by setting up advice, opinion or action of any other person, organization or department, official or otherwise, for the simple reason that the article of the constitution which prescribes his duty does not allow it. There is no opportunity for any, even the least, intervention, between the entry of the amendment on the journals and the publication in the newspapers in the whole course of the proceeding for the creation of the amendment.

The subsequent provisions of the article are equally devoid of any right or authority to intervene, derived from any source whatever. For, in the fifth place, the articles provide that, "if in the general assembly next afterwards chosen such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, **the secretary of the commonwealth shall cause the same again to be published in the manner aforesaid.**" Here again the only precedent to the duty of a second publishing by the secretary is an agreement by the two houses to the amendment. **The same duty of publishing the second time is imposed, and the same mandatory terms, as in the first.** Thus, "the secretary of the commonwealth shall cause the same again to be published in the manner aforesaid." **Immediately thereafter follows the provision in the sixth place, that the amendment shall be submitted to a vote of the people,** and lastly, if the amendment is approved by a majority of the voters it becomes a part of the constitution. These then are the several stages in the procedure to create an amendment."

Here the court clearly stated that any proposed amendment or amendments must, as a mandatory constitutional requirement, be published three months before the next "general election" in two newspapers in every county following the first and second passing of the proposed amendment or amendments.

There are no exceptions to these requirements!