

1971 O. A. G.

OFFICIAL OPINION NO. 2

February 5, 1971

Hon. Michael K. Rogers  
Indiana State Representative  
2709 East Fair Oaks Drive  
New Castle, Indiana 47362

Dear Representative Rogers:

This is in response to your request for my Official Opinion as to the chronological requirements of the Constitution of the State of Indiana with respect to amendments.

ANALYSIS

Art. 16, Sec. 1 of the Constitution of the State of Indiana reads as follows:

“Any amendment or amendments to this Constitution, may be proposed in either branch of the General Assembly; and, if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and *referred to the General Assembly to be chosen at the next general election*; and if, in the General Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the State; and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this Constitution.” (My emphasis)

The rules of statutory construction as adopted by the Indiana General Assembly in 2 R.S. 1852, Ch. 17, Sec. 1, p. 339, say that “words and phrases shall be taken in their plain, or ordinary and usual sense.” While this statement was specifically directed to statutory law, it applies equally to Constitutional law.

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Clearly, the Constitution of Indiana requires that a proposed amendment to the Constitution be agreed to by a majority of all the members elected to each house of the General Assembly in two successively-elected General Assemblies, and then it must be submitted for ratification by the electorate on direct vote in either a general election or a special election. In re Todd, 208 Ind. 168, 193 N.E. 865.

The history of the Indiana General Assembly also indicates that extra sessions of a General Assembly are considered part of the same numbered General Assembly as, for example, the Special Session of 1963 was considered a Second Session of the 93rd General Assembly; the Special Session of 1951 was considered a Second Session of the 88th General Assembly; the Special Session of 1944 was considered a Second Session of the 84th General Assembly; the Special Session of 1938 was considered a Second Session of the 80th General Assembly.

Chronologically then, an amendment agreed to for the first time by the 96th General Assembly (1969), and then agreed to for the second time in the 97th General Assembly (in either the 1971 or 1972 Sessions), would go before the electorate at the general election or a special election following such approval by the second General Assembly. An amendment agreed to for the first time in either session of the 97th General Assembly (1971 or 1972) would have to be agreed to again by the 98th General Assembly (1973 or 1974) before submission to the electorate for ratification. The 1972 Session of the General Assembly and any special sessions that might be held prior to the election of the next General Assembly would be considered additional sessions of the 97th General Assembly. The 98th General Assembly will be the legislative body which is constituted following the general election of 1972.

## CONCLUSION

In view of the clear language of Art. 16, Sec. 1 of the Constitution of the State of Indiana, it is my official opinion that a proposed Constitutional amendment must be agreed to by two successive General Assemblies following two successive general elections prior to its submission to the electorate of Indiana for ratification at a general or special election.