



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

June 22, 1956

Mr, Ramie H. Griffin
Criminal District Attorney
Beaumont, Texas

Attention: Mr. Frank M. Adams
First Assistant

Opinion No. MS-257

Re: Duty of county Democratic
executive committees with
respect to referendum ques-
tions certified by the State
Executive Committee to be
placed on the ballot at the
primary election on July
28, 1956.

Dear Sir:

You have requested an opinion on the following ques-
tion:

"Is it mandatory that propositions certified to
the County Committee by the State Democratic
Executive Committee be placed on the ballot?"

Your request has reference to the three propositions
which the State Democratic Executive Committee was petitioned
to submit to a vote, in accordance with Article 13.33 of Vernon's
Texas Election Code, and which the Chairman of the State Com-
mittee has certified to the chairmen of the county executive
committees to be placed on the ballot for the Democratic primary
election to be held on July 28, 1956.

You have submitted the following statement of your
views in connection with your request:

"Article 13.33 of the Election Code provides in
substance that no demand for specific legislation
shall be made by any political party unless the proposi-
tion shall have been submitted to the people endorsed by
the majority of the people in a primary election of the
party. It further provides that the State Executive Com-
mittee shall on petition of ten per cent (10%) of the voters
from any party as shown by the last primary election
vote submit any such question or questions to the voters
at the general primary next preceding the State Convention.

"I find no other function of the county
committee with respect to these certificates other than
to place them on the ballot."

"Article 230 of the Penal Code provides a penalty for failure of any chairman or member of the executive committee to wilfully fail and refuse to discharge any duty imposed on him under the law, and Article 13.41 [of the Election Code] authorizes mandamus proceedings against any committee or committeeman to enforce the provisions of the Election Code.

"It is, therefore, the opinion of this office that the county committee has no discretion with respect to placing on the ballot the names of the candidates and any propositions properly certified by the State Executive Committee."


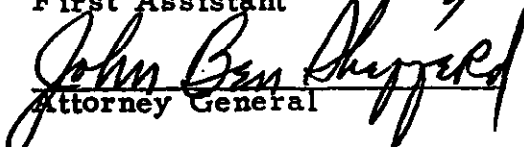
We agree with your conclusion that it is the mandatory duty of the county executive committees to place on the July primary ballot the referendum questions which have been certified to them by the State Executive Committee. The duties of the county committees in this respect are ministerial and they have no authority to make their own determination as to the sufficiency of the petitions submitted to the State Executive Committee. Weatherly v. Fulgham, 271 S.W.2d 938 (Tex.Sup. 1954); 29 C.J.S., Elections, §§ 147, 155, 156, 162; Att'y Gen. Op. V-1529 (1952). Nor can a county committee refuse to place these questions on the ballot because it is not in favor of their submission any more than it could refuse to place on the ballot the names of candidates whom its members did not favor.

It is our further opinion that the placing of these questions on the ballot is a duty which is included within the provisions of Article 230 of the Penal Code, making it an offense for a chairman or member of an executive committee to wilfully fail or refuse to discharge any duty imposed on him under the law. Sterling v. Ferguson, 122 Tex. 122, 53 S.W.2d 753 (1932); Thomason v. Seale, 122 Tex. 160, 53 S.W.2d 764.

Yours very truly,

APPROVED:

JOHN BEN SHEPPERD
Attorney General of Texas


First Assistant

Attorney General

By 
Mary K. Wall
Assistant

MKW:cs