

Tenn. Op. Atty. Gen. No. 79-383 (Tenn.A.G.), 1979 WL 33991

*1 Office of the Attorney General

State of Tennessee
Opinion No. 79-383
August 23, 1979

Hon. Victor H. Ashe
State Senator
P. O. Box 1382
Knoxville, Tennessee 37901

Dear Senator Ashe:

In your letter to General Leech, you requested an opinion of this office with respect to the question set forth below:

QUESTION

Whether the Speaker of the Tennessee Senate and the Speaker of the Tennessee House are elected for two year terms or simply to serve at the pleasure of a majority of the membership?

OPINION

It is the opinion of this office that the Speaker of the Tennessee Senate and the Speaker of the Tennessee House of Representatives are elected for two year terms.

ANALYSIS

[Article 2, Section 11, Tennessee Constitution](#), provides in part:

‘The Senate and House of Representatives, when assembled, shall each choose a speaker and its other officers; . . .’

Until 1966, this was the sole reference in our State Constitution to the selection of Speakers. In 1966, [Article 2, Section 3 of the Tennessee Constitution](#) was amended, so that it now reads in part:

‘The Legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, both dependent on the people. Representatives shall hold office for two years and Senators for four years from the day of the general election, except that the Speaker of the Senate and the Speaker of the House of Representatives, each shall hold his office as Speaker for two years or until his successor is elected and qualified, . . .’ (emphasis added)

There is thus now specific constitutional provision for a term of two years for the Speakers. ‘Holding over’ by definition occurs only at the expiration of an officer’s term, and Tennessee Courts have applied the principle on numerous occasions. See [Stambaugh v. Price](#), 532 S.W.2d 929 (1976); [Southall v. Billings](#), 213 Tenn. 280, 375 S.W.2d 844 (1963); [Hogan v. Hamilton County](#), 132 Tenn. 554, 179 S.W. 128 (1915).

In [Cooley’s Constitutional Limitations](#) (Eighth Edition), Vol. 1, in a note at page 270, the statement is made that a Legislative House, by majority vote of all members elected, may retire its speaker and elect another. But the author states that this is the case, except where other provision is made by constitution or statute. Indeed, authority for this note is derived from an opinion of the Colorado Supreme Court and that Court relied upon the absence (in the Colorado Constitution) of any specified term for their Speaker.

It follows that subsequent to the adoption of the 1966 amendment to [Article 2, Section 3 of the Tennessee Constitution](#), that the Speaker of the House and the Speaker of the Senate are elected by the members of the respective bodies for a term of two

years.

Sincerely,

William M. Leech, Jr.

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