

ALAN BIBLE, *Attorney General*.

672. Nevada Hospital for Mental Diseases—Ownership of Piano Not Vested in Hospital.

CARSON CITY, September 13, 1948.

S.J. TILLIM, M.D., *Superintendent, Nevada State Hospital for Mental Diseases*, P.O.
Box 2460, Reno, Nevada.

DEAR DR. TILLIM: This will acknowledge receipt of your letter dated September 9, received in this office September 10, 1948.

You request advice relative to a demand by Mrs. Caroline G. Matthews for the return of a piano which she installed in the hospital for the use of a patient and has been in the hospital since 1944.

You submit correspondence to make clear the present status.

It appears, from the correspondence that the ownership of the piano is vested in Mrs. Matthews, who purchased the same from the Bell Piano and Organ Company in Reno on a contract dated May 15, 1944, and that she now holds the receipted contract made out to her.

On August 29, 1946, Mrs. Matthews wrote to you stating that the purchase price of the piano was \$525 and aside from donations by a few friends amounting to a little over \$100, she paid the balance of around \$400. In the same letter she offered to sell the piano to the hospital.

The copies of letters from the hospital during the year 1946 show that the offer to sell was not accepted by the hospital.

The letter from Mrs. Matthews dated August 20, 1948 withdraws her offer to sell the piano, and advises that she will remove the same at a time convenient to you.

Your letter of August 25, 1948 is to the effect that the Board would be willing to pay a reasonable price after due deductions of the contributions made by others toward the purchase of the piano, and further that you were "willing to consider a reasonable price to retain the piano on the basis of your own investment of approximately \$400."

Mrs. Matthews on September 7, 1948 refused to accept your offer and attempted to repossess the piano which you refused to release.

The correspondence shows that the offer to sell to the hospital was continued from August 29, 1946, to August 20, 1948, at which the time the offer was revoked. The right to revoke an ordinary offer before acceptance is unquestioned, see 12 Am. Jur. page 527.

The offer made by you on August 25, 1948 was rejected by Mrs. Matthews and was therefore terminated and cannot create a contract. It appears that Mrs. Matthews can show title to the property, and it is not essential that title be absolute. This is true even though a third person may have some interest in the property. 94 A.L.R., page 941.

We therefore advise that the piano be released to Mrs. Matthews according to her demand of September 7, 1948, upon satisfactory showing that she holds a receipted contract from the Bell Piano and Organ Company of Reno, Nevada, vesting title in her.

Very truly yours,

ALAN BIBLE, *Attorney General*.

By GEORGE P. ANNAND, *Deputy Attorney General*.

673. Elections—Democratic Candidates for Assembly Not Entitled To Be Placed on Ballot to Fill Vacancies on Republican Ticket.

CARSON CITY, September 13, 1948.

MR. ROBERT E. JONES, *District Attorney, Las Vegas, Clark County, Nevada.*

DEAR MR. JONES: Receipt is hereby acknowledged of your letter of September 10, 1948, wherein you request the opinion of this office on the following questions:

Assembly District No. 2 of Clark County is entitled to send four representatives to the State Assembly. Three Republicans filed their nomination as Republican candidates, and seven Democrats also filed. Our County Clerk is in doubt as to how the November election ballot shall be prepared, that is whether the ballot shall list the names of the three Republicans and five Democrats, or whether only four or three Democrats shall be listed.

Would the Democratic candidate who received the highest number of votes in the primary election be virtually elected to that office by reason of the fact that only three Republican candidates filed?

It is the opinion of this office that the question as to the number of Assembly candidates to be placed upon the November election is governed by the case of *Ex rel. Cline v. Payne*, 59 Nevada 127. The Supreme Court in this case construed section 2425, N.C.L. 1929, 1931-1941 Supplement, with respect to an analogous situation then existing in Clark County with respect to the number of Assembly candidates to be placed upon the November election ballot.

The opinion of the Court shows that it decided that in the *Cone* case four Democratic candidates for the office of Assemblyman, plus the one Republican candidate for the same office, should be placed upon the November election ballot. Section 2425 as construed by the Supreme Court, in our opinion, requires that the same construction now be placed on such law and that at the coming November election four Democratic candidates and three Republican candidates for the office of Assemblyman shall constitute such November election ballot for such office.

In reply to the second query, please be advised that the Democratic candidate who received the highest number of votes in the primary election did not by reason thereof necessarily be virtually elected to the office of Assemblyman by reason of the fact that only three Republican candidates filed. Such Democratic candidate stands in the same relation in the November election as the other three Democratic candidates.

Very truly yours,

ALAN BIBLE, *Attorney General.*

By W.T. MATHEWS, *Special Assistant Attorney General.*

674. Elections—Polling Places Cannot Be Established for the General Election at Points Beyond the Boundaries of a Particular Voting Precinct.

CARSON CITY, September 14, 1948.

HONORABLE HAROLD O. TABER, *District Attorney, Reno, Nevada.*

DEAR HAROLD: This will acknowledge receipt of your request of September 9, 1948 in which you ask whether or not polling places can be established in the city of Reno for the general election at points beyond the boundaries of a particular voting precinct.

It is our opinion that this cannot be done under the present Nevada statutes.