Finally, it is concluded that a person seeking to exercise the right to reconveyance provided him by NRS 361.585(3) must pay the taxes and applicable penalties, costs and interest for each and every year up to the date of such reconveyance.

Respectfully submitted,

ROBERT LIST
Attorney General

OPINION NO. 71-48 VOTING—REGISTRATION—Students and all other citizens aged 18, 19, and 20 are sui juris for all purposes related to voting and can establish a legal residence for voting purposes separate and apart from that of their parents or guardians; they may register and vote where they attend school if they are residents of such county and if they meet the statutory and constitutional requirements.

Carson City, October 20, 1971

The Honorable John Koontz, Secretary of State, Capitol Building, Carson City, Nevada 89701

Dear Secretary Koontz:

This opinion is in response to your letter of August 24, 1971 in which you ask for an opinion on the following:

QUESTION

May out-of-state students attending the University of Nevada or students whose parents are residents of one county in Nevada different from the county in which the University of Nevada is located, register and vote at the location where they are attending school?

ANALYSIS

Your question is undoubtedly prompted in large measure by the passage of the 26th Amendment to the United States Constitution as well as the amendment to Section 1 of Article II of the Constitution of the State of Nevada both of which reduce the minimum voting age to 18 years. Also to be considered in determining this question is the Voting Rights Act of 1970 which attempted to lower the voting age to 18 in all national, state and local elections. The 26th Amendment to the United States Constitution reads as follows:

> The right of citizens of the United States, who are 18 years of age or older, to vote shall not be denied or abridged by any state on account of age.

In order to fully understand the scope and intent of the 26th Amendment a brief background may be helpful. On June 22, 1970 President Nixon signed into law the Voting Rights Act of 1970 (P.L. 91-285, 84

Stats. 314), Title III of which purported to lower the voting age to 18 for all federal, state and local elections. Subsequently the United States Supreme Court in the case of *Oregon v. Mitchell*, 400 U.S. 112, held that the segment of Title III which applied to nonfederal elections was unconstitutional. Congress then passed Senate Joint Resolution No. 7 on March 23, 1971, submitting the proposed constitutional amendment to lower the voting age to the states for

ratification pursuant to Article 5 of the federal constitution. On June 30, 1971, Ohio became the 38th state to ratify the 26th Amendment and as such it then became law.

Throughout the course of this opinion it must be borne in mind we are concerned here with the right to vote which has been closely and zealously guarded by courts at all levels due to the fact that it is a fundamental political right which preserves all other rights. This "political franchise of voting" was described in the early case of *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886), as "a fundamental political right because preservative of all rights."

Several recent cases concerning voting have reaffirmed this position. The case of *Reynolds v. Sims*, 377 U.S. 533 (1964), at pages 561 and 562 stated:

> Undoubtedly the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.

Similarly the case of *Wesberry v. Sanders*, 376 U.S. 1 (1964), held:

> No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights even the most basic, are illusory if the right to vote is undermined. Our constitution leaves no room for classification of people in a way this unnecessarily abridges that right.

A similar though brief reiteration of this position appeared in *Evans v. Cornman*, 398 U.S. 419, 422 (1970), where the court held "* * * the right to vote, as the citizens link to his laws and government, is protective of all fundamental rights and privileges."

The recent Michigan Supreme Court case of *Wilkins v. Bentley*, …… Mich. …… (No. 52953, August 27, 1971), which case directly dealt with the rights of students to register and vote held, at page 7 of the original opinion, "It can be stated without exaggeration that the right to vote is one of the most precious, if not most precious, of all constitutional rights." A similar conclusion is found in Nevada case law where, in *Lynip v. Buckner*, 22 Nev. 426 (1895), at page 438, the court held:

> The right of voting, and, of course, having the vote counted, is one of most transcendent importance, the highest under our government. That one entitled to vote shall not be deprived of his privilege by an action of the authority is a fundamental principle.

Although generally the State has a wide latitude and discretion in adopting laws under the general police power because the fundamental

constitutional right to vote is involved, the courts, under the equal protection clause of the 14th Amendment of the federal constitution, will closely scrutinize any regulation concerning voting to see that the right is not abridged or denied. The line of cases on this point has evolved certain standards among which are the fact that the interest upon which the State relies in an attempt to justify its restrictive classification must be "compelling" not merely "rational" or "legitimate." *Cipriano v. City of Houma*, 395 U.S. 701 (1969), *Kramer v. Union Free School District*, 395 U.S. 621 (1969), *Harper v. Virginia Board of Elections*, 383 U.S. 663 (1966), *Castro v. Calif.*, 2 Cal.3d 223 (1970); and also that in questions concerning a fundamental constitutional right the State and not the voter has the burden of demonstrating that the classification is necessary and not in violation of the constitution. *Hadnott v. Amos*, 394 U.S. 358 (1969), *Gaston County v. United States*, 395 U.S. 285 (1969).

As noted in *Kramer*, supra, at page 626:

> Any unjustified discrimination in determining who may participate in political affairs or in the selection of public officials undermines the legitimacy of representative government. (For similar holdings *see Cipriano*, supra and *Harper*, supra.)

In order to apply these general constitutional holdings to the question at hand we must review the Nevada Constitution and applicable statutes pertaining to residency and voting in order to determine where students and those of the age of 18, 19, and 20 should be permitted to register to vote.

It is noted that residence for the purposes of voting is not defined in either the Nevada Constitution or the Nevada Revised Statutes. However, NRS 10.020 defines "legal residence" as follows:

> The legal residence of a person with reference to * * * any * * * right dependent on residence is that place where he shall have been actually, physically and corporally present within the state or county, as the case may be, during all the period for which residence is claimed by him. Should any person absent himself from the jurisdiction of his residence with the intention in good faith to return without delay and continue his residence, the time of such absense [absence] shall not be considered in determining the fact of such residence.

It is noted that the predecessor sections to NRS 10.020 (N.C.L. 6504) specifically enumerated that the legal residence of a person "* * * with reference to his or her right to sufferage [suffrage] * * *" was to be determined as outlined in NRS 10.020. Notwithstanding the deletion of this specific reference of a right to suffrage from the current sections defining legal residence it is the opinion of this office that since the right to vote obviously depends on legal residence, NRS 10.020 and related sections pertaining to the registration of voters (NRS 293.485, et seq.) are to be used in determining residence for the purposes of voting.

Before determining where citizens aged 18, 19, and 20 may be permitted to vote it is necessary to determine whether or not they are emancipated and *sui juris* for voting purposes, and therefore capable of choosing their own residence. Although the general rule is that the residence and domicile of the minor is that of his parent or guardian the

reason for this rule is the common law assumption that a minor is not *sui juris* and therefore incapable of forming an intent sufficient to qualify him as a resident in another location. However, under the June 28, 1971 amendment to the Nevada Constitution and the 26th Amendment to the United States Constitution as well as the Voting Rights Act of 1970, it is obvious that the intent of the lawmaking bodies was that citizens aged 18, 19, and 20 were *sui juris* for purposes of voting. The right to vote is a very personal right and any requirement which would compel students, as opposed to other citizens, to register to vote in the locale of their parents' or guardians' residence rather than at the location where their individual interests lie, and from which elected political officials and officeholders will represent their interest, would fly in the face of both the spirit and intent of the 26th Amendment and the act of the citizens of this State in reducing the voting age from 21 years to 18 years.

This attempted denial would be constitutionally suspect in that it would deny those aged 18, 19, and 20 a right to establish a residence of their own for voting purposes while citizens 21 years of age and older are permitted to do so. This, in a very real sense, would be a flagrant violation of the 26th Amendment in that a right relative to voting would be denied to those aged 18, 19, and 20 (to wit: a right to choose their residence) solely on account of their age and therefore their right to vote would be abridged in clear violation of both the letter of the 26th Amendment and

the spirit of this amendment as evidenced by Senate Judiciary Committee, S. Rep. No. 92-96, 92nd Cong., 1st Sess. (Report accompanying Senate Joint Resolution No. 7 (1971), p. 14.)

In determining whether students and other citizens of the ages of 18, 19, and 20 have met the constitutional and statutory requirements for legal residence it is necessary to review residence requirements imposed upon those 21 years of age and over. To apply any different standards for those of the age of 18, 19, and 20 who are attempting to enroll to vote would violate the 14th Amendment and the 26th Amendment to the United States Constitution and also the Nevada State Constitution.

The Nevada Supreme Court has not interpreted Section 1, Article II of the Nevada Constitution or NRS 293.485 which sets forth residence requirements for voting purposes in Nevada. These have been construed by this office in Attorney General's Opinion No. 276, dated March 7, 1962. There, it was said:

> While such provisions might seem to contemplate no more than bodily presence in the state, county and precinct for the specified period of time, it is generally conceded that the term "residence," when used in the constitution and statutory provisions pertaining to elections are synonymous with the term "domicile." This means in order to acquire residence for voting purposes in a locality an intention to make such locality home, and to abandon the former one must concur with visible presence for the period prescribed by the constitution and statutes.

For a similar conclusion see Attorney General's Opinion No. 26, dated March 21, 1955, where it was stated "It is almost axiomatic in the law that the term residence for the purposes of voting is synonymous with the term domicile," and also Attorney General's Opinion No. B957, dated October 10, 1950.

Having concluded that citizens aged 18, 19, and 20 are *sui juris* for voting purposes and therefore can establish a legal residence separate and apart from their parent or guardian it is necessary to determine upon what basis they may establish this residence. A primary problem is obviously that of intention to abandon the former residence and assume a new residence. Attorney General's Opinion No. 276, supra, fairly represents the current position of this office pertaining to the establishment of residence where it stated:

> This additional requirement of intent admittedly makes measurement of the residence requirements of one seeking to vote difficult since there is no absolute criteria by which such intent can be ascertained. Each case must be determined upon its own facts, so that it would be improper and dangerously misleading to attempt to set forth any criteria in the abstract. About all that should be stated generally is that a person must have a domicile somewhere; that he cannot be domiciled in two places at once; one domicile is presumed to continue until a new one is established. In determining whether the necessary intent exists, declarations of a person seeking to vote are not controlling, and probably more consideration should be given to his intention as manifested by his acts, conduct and other factors which serve to connect him with a locality * * *

This conclusion is similar to that reached in the Supreme Court in the case of *Carrington v. Rash*, 380 U.S. 89 (1965), which case concerned the right of members of the military to register and vote in the State of Texas, where at page 95 the court held:

> The declarations of voters concerning their intent to reside in the state and in a particular county is often not conclusive; the election officials may look to the actual facts and circumstances.

The touchstone and guiding light for all registrars of voters or those serving in that capacity when it comes to registering citizens aged 18, 19, and 20, and students in particular, is that they be treated in no different manner than those citizens 21 years of age and over; and further that no additional or burdensome tests or conditions are imposed on them as a prerequisite to their securing their constitutionally granted and protected right to vote.

Under NRS 293.517, Section 1, any citizen of the county may register to vote by appearing before the proper authority and completing an affidavit of registration as well as "* * * giving true and satisfactory answers to all questions relevant to such elector's right to vote. * * *" It would be permissible to ask questions usually and normally asked of citizens 21 and over of those aged 18, 19, and 20 to determine whether or not they meet state requirements for registration. But, any requirement that citizens aged 18, 19, and 20 furnish additional information other than that required of those 21 and over would be constitutionally impermissible; as would a requirement that students and citizens of the ages of 18, 19, and 20 be compelled to answer any question if those 21 years of age and over have been registered merely on their oath or affirmation that they are in fact a resident and meet the constitutional and statutory requirements to vote in this State.

It would be patently unfair to presume that members of this class of

recently-enfranchised individuals would subvert the election process by attempting to vote at more than one location. Should dual registration actually occur adequate safeguards and criminal sanctions are imposed by NRS 293.600. This section also imposes criminal sanctions against a voter registrar who either neglects his duty or performs it in such a way as to hinder the objects and purposes of the election laws of this State.

The position that all citizens are to be treated equally when it comes to the right to register and vote is affirmed by several recent cases as well as the Federal Voting Rights Law.

In *Jolicoeur v. Mihaley,* …… Cal.3d …… (S.F. No. 22826, August 27, 1971), the California Supreme Court held that it was unconstitutional for state officials to presume that for voting purposes the residence of an unmarried minor will normally be his parents' regardless of the minor's present or intended future habitation because this conclusion treated minors differently from adults and thus violated both the equal protection and due process clause of the U.S. Constitution as well as the 26th Amendment. At page 8 of the original opinion the court stated:

> The Twenty-Sixth Amendment, like the Twenty-Fourth, Nineteenth and Fifteenth before it "nullified sophisticated as well as simple-minded modes of discrimination. It hits onerous procedural requirements which effectively handicap exercise of the franchise * * * although the abstract right to vote remains unrestricted * * *" *Lane v. Wilson,* 307 U.S. 268, 275 (1939)

At page 31 of its opinion the court stated "The fundamental importance of the franchise, as both an essential and vital tool of our democracy, requires that every effort be made to apply uniform standards and procedures to all qualified voters equally."

At page 32 the court then noted that its holding was basically that the 26th Amendment required the state registrar to treat all citizens 18 years of age and older alike for the purposes related to registration and voting and stated "[w]e hold only that registrars may not specially question the validity of an affiant's claim of domicile on account of his *age or occupational status.*" (Italics added.)

Failure to treat all those attempting to secure the right to vote equally would also be in contravention of 42 U.S.C.A. § 1971(a)(2)(A) which reads:

> 2. No person acting under color of law: (A) Shall in determining whether any individual is qualified under state law or laws to vote in any election apply any standard, practice, or procedure different from the standards, practices or procedures applied under such law or laws to other individuals within the same

> county, parish, or similar poiltical [political] subdivision who have been found by state officials to be qualified to vote.

It is noted that this section applies to all forms of discrimination and differs from § 1971(a)(1) in that it is not limited to discrimination on the basis of race, color, or previous condition of servitude.

As noted in *Kramer*, supra, at pages 626 to 627:

> Statutes granting the franchise to residents on a selective basis always pose the danger of denying some citizen an effective voice in the governmental affairs which substantially affect their lives.

A similar conclusion that all voting regulations must be equal and impartial was reached in this State in the case of *State ex rel. Whitney v. Finley*, 20 Nev. 198 (1888), at page 202, where the court stated:

> All regulations of the elective franchise however must be reasonable, uniform and impartial. They must not have for their purpose directly or indirectly to deny or abridge the constitutional right of a citizen to vote, or unnecessarily to impede his exercise; if they do they must be declared void. (Citations omitted.)

Although the court was there talking about the Legislature's power to prescribe rules and oaths to test qualifications of an elector, the court's pronouncement would be equally applicable to the conduct of a registrar attempting to control or manipulate registrations by refusal to apply the same standards to all who attempt to register and discriminating against some by imposing a higher standard merely because of their age or occupation.

The conclusion that students and all citizens of the ages 18, 19, and 20 should be treated equally was not reached without consideration of Article II, Section 2 of the Nevada Constitution and NRS 293.487, which state in part:

> No person may gain or lose residence by reason of his presence or absence while * * * a student at any seminary or other institution of learning * * *

The great weight of authority in other jurisdictions is to treat constitutional or statutory provisions of this nature as having merely a neutral effect and not being controlling one way or another as to residence. These authorities are collected in 98 A.L.R.2d 488, under the heading "Residence or Domicile of Student or Teacher for Voting Purposes." Among the conclusions reached in this annotation are these:

In construing the constitutional provision that for voting purposes no person is deemed to have gained or lost residence by reason of his presence or absence at any institution of learning the annotation states in II, § 2, at page 490:

> This has the effect of nullifying the fact of the student's physical or bodily presence as a step in determining his residence, and the courts generally treat this as a neutral factor, ascertaining his residence from the evidence of his intent. (Citations omitted.)

In II, § 5, at page 495, the annotation concludes:

> Attendance at school may be accompanied by an intent to make that place one's new home. When a student's actions and conduct in the school town manifest such an intent the courts recognize his right to vote from his college residence,

> constitutional or statutory provisions on residence of the student notwithstanding. (Citations omitted.)

The annotation also concludes at pages 497-498 in II, § 6, that students whose intentions regarding residence after completing their education are indefinite may still be permitted to vote at the location of the school when it states:

> A student who gives the most usual answer when his right to vote in a college town is challenged—that his plans as to the future residence are uncertain, and depend upon employment and other opportunities, but that he considers the town his home for the present and has no intention of returning to his parents home—will be allowed by the courts in most states to vote in his college town. (Citations omitted.)

The conclusion that a statute similar to NRS 293.487 and Article II, Section 2 of the Nevada Constitution must be treated as not placing a presumption of residency or nonresidency upon the student or imposing any additional burdens upon him in his attempt to register is reaffirmed by the *Wilkins* case, supra, which held a similar statute violated both the 14th and 26th Amendments to the federal constitution by imposing the presumption of nonresidency upon the individual seeking the voting franchise. Therefore previous Attorney General's Opinions which stated that students or other individuals enumerated in either NRS 293.487 or under Article II, Section 2 of the Constitution have an additional burden of establishing residency are hereby disaffirmed.

Henceforth, voter registrars' treatment of all members of this class of individuals who seek to register to vote should be controlled and guided by the following language found in *Chomeau v. Roth*, 72 S.W.2d 997 (1934), where the court in construing Article VIII, Section 4 of the Missouri Constitution, which contains language identical to Article II, Section 2 of the Nevada Constitution, held at page 999:

> The fact that the challenged voters were students is in and of itself not at all decisive to the case. Our Missouri constitution provides * * * that for the purposes of voting, no person shall be deemed to have gained a residence by reason of his presence, or to have lost it by reason of his absence, while a student of any institution of learning. So the constitution leaves the student much as it finds him, permitting him either to retain his original residence for voting purposes, or to take up a residence wherever his school is located if he so elects. In other words, mere physical presence at the school is not enough either to gain for him a voting residence at the school, or to cause him to lose his existing voting residence at his home; the whole question, as in similar situations, being largely one of intention, to be determined not alone from the evidence of the party himself, but in light of all facts and circumstances of the case.

Illustrative of the requirement that students must be treated equally in registration is the situation where, after a student has established residency at the university for the statutorily required time, he or she should be permitted to register to vote notwithstanding the fact that they had an intention to depart from the jurisdiction temporarily over the summer vacation for the purposes of seeking employment or vacation unless it can be shown that an individual, not a student, or not of the ages 18, 19, and 20 who, due to his status or occupation absents himself from the jurisdiction over the summer interval for purposes of either vacationing or employment would also not qualify to vote within the jurisdiction. As noted in Attorney General's Opinion No. B957, supra, this office has previously ruled that one who resides in and is employed in the State for a period of

7 months but temporarily outside the State for a period of 5 months would, under applicable registration law, be considered a resident for the purposes of voting.

Similarly, NRS 293.497 which states that if a man is permanently located within the State with no intention of removing therefrom he shall be deemed a resident for election purposes regardless of the fact that his family resides without the State should be construed as being applicable to students; and the fact that the student's family resides outside the State should in no way deprive him of establishing residency for election purposes since to do so would be to discriminate against students on the basis of his age or occupation in contravention of the 14th and 26th Amendments of the United States Constitution.

The Nevada Supreme Court has consistently expressed the view that the law generally and all statutes and regulations pertaining to voting should be evenly and fairly applied. This view is evidenced by the long-held opinion in this State that the right to vote, which necessarily encompasses the requirement of registration to vote, is always construed in such a manner as to permit the greatest number of citizens to exercise this time-honored and long-protected franchise. This position is indicated by several Nevada Supreme Court cases pertaining to registration and voting. Representative of these cases are the following:

In *Boyle v. State Board of Examiners*, 21 Nev. 67 (1890), at page 71, the court stated:

> The object of these [registration] laws, as before stated, is to determine the qualification of voters. Laws of this description must be reasonable, uniform and impartial and must be calculated to facilitate and secure rather than to subvert and impede the exercise of the right.

In *Turner v. Fogg*, 39 Nev. 406 (1916), at page 414, the court noted:

> It is well-settled that election laws are to be liberally construed to enable the largest participation in all elections by qualified electors.

In *Lynip*, supra, page 439, it is stated:

> All statutes tending to limit the exercise of the elective franchise by a citizen should be liberally construed in his favor * * *

And, as this office previously stated in Attorney General's Opinion No. 155, dated August 15, 1924:

> We must remember in this and other cases, dealing with the right of an individual to vote, no technical or strict construction should be placed upon the law, if in doing so, the constitutional right of suffrage is to be defeated.

It is also to be remembered that students have numerous connections with the community where they attend school. They are subject to the State's laws and regulations and may sue or be sued in the local courts. They pay local gasoline, sales and use taxes and thus an appreciable portion of the State's revenue is derived from the taxes they pay. For census purposes, commencing in 1970, students are considered residents of the communities in which they reside while attending school and thus are

counted as being residents for the purpose of rebates of certain tax revenues to the various political subdivisions involved. Students are considered residents of their college community for the purpose of apportioning and districting the Legislature. To permit a student to be counted for the purposes of districting the Legislature but then to deny him the right to vote for members of the Legislature and other officials elected from that district may well violate the "one-man, one-vote" rulings of the Supreme Court.

To deny students the right to vote where they attend school would clearly violate the intent of the 26th Amendment as evidenced in the committee report accompanying Senate Joint Resolution No. 7 where, at page 372 of the 1971 *U.S. Code Congressional and Administrative News* (as quoted at page 13 of *Jolicoeur*, supra), it was stated:

> If the energy and idealism of the young are needed in elective politics they are needed no less at the state and local level.
>
> [¶] *Moreover many of the problems that most concern younger citizens are largely matters of local and state policy: the quality of education at all levels; the state of the environment; planning and community development. In these areas participation of the young in local and state elections is particularly appropriate and necessary, and their point of view especially valuable in devising responsible programs.* [Court's emphasis.]

In summary, voting is a fundamental constitutional right and it was the intent of both the federal and state government in amending their respective constitutions to grant the elective franchise to individual citizens of the ages of 18, 19, and 20 and that these citizens are *sui juris* for voting purposes and thus capable of establishing their own legal residence for voting purposes.

Legal residence as it is generally understood in this State for voting purposes requires a physical presence coupled with an intent to abandon the former residence or domicile and establish a new residence or domicile at the present location.

The local registrar of voters may inquire into the intent of the prospective voter; providing that questions or procedures not used to determine voting residence for those 21 years of age or over or not students are not asked of those 18 but under 21 years of age or whose occupation is a student. To do so would constitute the imposition of additional burdens or require a higher degree of proof of residency for those aged 18, 19, and 20 or whose occupation is a student and would discriminate against them in extending the right to vote in violation of both the 14th and 26th Amendments to the federal constitution.

In light of the long and proud history that this State has enjoyed in construing its laws to encompass within the elective process as large a number of citizens as possible, the registrars should register those students who meet the constitutional requirements of age and residency as previously applied to individual voters 21 years of age and over.

This opinion is entirely consistent with Attorney General's Opinion No. 168, dated August 25, 1920, wherein construing the law that no students will be deemed to have gained or lost residence while at any seminary or institution of learning, then Attorney General Fowler stated:

> My construction of the law in this respect is that, while such a student has not deemed to have lost residence, he still has the right to assert a claim to a different residence. If he, therefore, registers at a place where he is attending school, that will be recognized as valid under the laws of this state.

We believe this law as it previously applied to students 21 years of age and over is now equally applicable to students over 18 years of age and this opinion is reaffirmed.

This opinion does not mean that students must register at the location where they attend school but only that being *sui juris* for the purposes of voting they may, by complying with constitutional and statutory requirements, establish a legal residence separate and apart from their parents which legal residence would permit them to vote in the State of Nevada. This is so whether the students before coming to school in Nevada were residents of this State or of another state. Consistent with the "neutral" interpretation that residence shall not be deemed to have been gained or lost by attendance at a seminary or institution of learning, a student from Nevada who attends school outside the State or an out-of-state student attending school in Nevada does not,

merely by this attendance, gain or lose residence for voting purposes. The courts have generally held that a temporary absence at school does not in and of itself show an intent to abandon one's residence, thus, when the evidence shows that a student who has gone away to school intends to return to his former home upon the completion of his education, the courts have uniformly held that no residence is acquired in the college town for voting purposes. (See 98 A.L.R.2d 488, II, §§ 3 and 4.)

CONCLUSION

Students and all other citizens aged 18, 19, and 20 are *sui juris* for all purposes related to voting and can establish a legal residence for voting purposes separate and apart from that of their parents or guardians; they may register and vote where they attend school if they are residents of such county and if they meet the statutory and constitutional requirements.

Respectfully submitted,

ROBERT LIST
Attorney General

OPINION NO. 71-49 LAS VEGAS BOARD OF CITY COMMISSIONERS must reapportion itself into four commissioner election districts with the mayor to be elected at large; if districts corresponding with the residences of each current commissioner cannot be constitutionally drawn, random selection shall determine among commissioners "1" and "3" and "2" and "4" which district each will represent for balance of present term; if at expiration of a commissioner's present term he is not a resident of the district then represented, he may not stand for re-election; the board must reapportion itself not less than after each decennial census.

Carson City, October 26, 1971

The Honorable Earl P. Gripentrog, City Attorney of Las Vegas, City Hall, Las Vegas, Nevada 89101

Dear Mr. Gripentrog:

You have requested the opinion of this office on the following six questions arising out of the enactment of Senate Bill No. 662 (Chapter 648, Stats. 1971) by the 1971 Nevada Legislature which requires the governing boards of local government units to redistrict, prior to January 1, 1972, the geographical area it serves into the number of election districts identical with the number of members serving on the board.

QUESTION NO. 1

Is the City of Las Vegas exempt from the mandate of Senate Bill No. 662?

ANALYSIS

The act provides that it applies to all government units, including cities "except as otherwise specifically provided by law." Municipal corporations whose charters provide for redistricting,