

DEAR SIR: Replying to your inquiry concerning the antialien registration law, we have to state that this is a statute passed at the last legislature of California requiring all resident aliens therein to register with the County Clerks of the several counties and to pay a registration fee of \$10. Of course this statute cannot apply to the State of Nevada or outside of California. We understand from the press, however, that in California this statute is being strenuously attacked in the courts and that some court there has intimated, if it has not already decided, that the statute is unconstitutional. From a cursory consideration we are inclined to think that the highest court will hold statutes of this kind unconstitutional because they do not guarantee equal protection of the laws and are discriminatory in their operations. In any event, any alien resident of Nevada, even though in business in California, would not be required to become registered in California.

By order of the Attorney-General:

Respectfully submitted,

ROBERTS RICHARDS, *Deputy Attorney-General.*

59. Public Schools—Trustees' Recall—Statute and Constitution in Connection Therewith Reviewed.

CARSON CITY, August 19, 1921.

HON. CHAUNCEY W. SMITH, *Deputy Superintendent of Public Instruction.*

DEAR SIR: Replying to your inquiry as to whether or not a valid recall election of a School Trustee may be had in a school district having a voting population of less than 100, I beg to advise in the affirmative.

Under date of August 12, 1919, a ruling was made by this office that a recall election of a School Trustee could not be legally held in such a district, for the reason that the Legislature had failed to provide by statute the necessary procedure relative thereto. At the 1921 session of the Legislature the school law was amended in certain particulars, Stats. 1921, page 298. Section 9 of said amendatory Act amends section 59 of the original Act and in part recites as follows:

In case of a recall election in districts having a voting population of less than one hundred (100), candidates for the office of School Trustee shall, not later than three days before said election have their names filed with the Clerk of the School Board in district, with the designation of the term of office for which they are candidates, and no names shall be voted on unless filed within the time and in the manner herein provided.

The Constitution, by an amendment thereto providing for the recall of a public officer, contains the following language:

The recall petition shall be filed with the officer with whom the petition for nomination to such office shall be filed, and the same officer shall order the special election when it is required.

A theory may be plausibly asserted that this provision of the Constitution refers to a petition for a nomination for an office at a regular election. However, in the case of the election of a School Trustee, in a district of the description under consideration, nominations are not filed and voters may vote for any person they desire at the election. The main point to be considered is whether or not the provision of the law providing for the filing of nominations for a recall election with the Clerk of the Board has controlling force in respect to the filing of a petition for

the recall of a School Trustee within the meaning of the constitutional provision herein mentioned. A constitutional provision should be made effective if such can be done without a destruction of the accepted rules of constitutional and statutory construction and interpretation. The recall provision of the Constitution by its terms requires an enabling statute to make it operative. Any Act of the Legislature enacted for such purpose should be so construed or interpreted, if possible, to execute said constitutional provision. In construing such a statutory provision if two plausible theories may be followed, one giving vitality to the Constitution and the other having the opposite effect, the former should be pursued. Such being the case, it is my opinion that the amendatory Act of 1921 should be construed to make valid a recall election in a school district of the character mentioned and that the provision therein contained, providing for the filing of nominations for a recall election with the Clerk of the School Board, governs the filing of a petition for a recall and that said petition is likewise to be filed with the Clerk of the Board.

By order of the Attorney-General:

Respectfully submitted,

ROBERTS RICHARDS, *Deputy Attorney-General.*

60. Proclamation, Executive—Alfalfa Weevil—Power of Inspection under Proclamation Defined.

CARSON CITY, August 20, 1921.

HON. EMMET D. BOYLE, *Governor of Nevada.*

SIR: Your letter, relative to regulations 4 and 8 of your quarantine proclamation issued on the 8th day of August, 1921, has been considered by me. I beg to advise that there is no inconsistency or contradiction in the two regulations. All household or agricultural emigrant movables originating in the county of Washoe, State of Nevada, are subject to the requirements contained in regulation 4. All baggage, emigrant movables, household effects, household implements, and other field appliances in process of being exported or removed from the county of Washoe, State of Nevada, are made subject to inspection by the state quarantine officer whether the same originated in Washoe County or elsewhere. Regulation 8 permits the inspection of any such property leaving Washoe County in any case where there is any likelihood that weevil may have entered said property.

Yours very truly,

L.B. FOWLER, *Attorney-General.*

61. Revenue, Banks, Assessment of—Nevada Tax Commission and State Board of Equalization Have Authority to Act in Regard Thereto.

CARSON CITY, August 25, 1921.

STATE BOARD OF EQUALIZATION, *Carson City, Nevada.*

GENTLEMEN: Replying to your inquiry of August 16, calling for official opinion as to the method to be pursued under section 3820, subdivision 2, relating to the assessment and taxation of shares in the Nevada First National Bank of Tonopah, we have to advise you that under the