

(loaning) of these sets of books to United States Senators or other offices or officers of the United States, but that the distribution thereof is limited to State offices and officers. It certainly does not provide for a sale or gift of these sets of books to any office or officer, either State or Federal.

Nevada Compiled Laws 1929, section 7414, cited by you, has no application at all to these sets of Nevada Compiled Laws. It refers alone to session laws of the Legislature and the legislative Journals, and they alone are to be furnished to members of Congress.

Respectfully submitted,

ALAN BIBLE, *Attorney-General*.

By GRAY MASHBURN, *Deputy Attorney-General*.

5. State Police Bill Regular Legislative Enactment.

CARSON CITY, February 8, 1943.

HON. E.P. CARVILLE, *Governor of the State of Nevada, Carson City, Nevada*.

MY DEAR GOVERNOR: On February 5, 1943, you asked me to check the legislative history of the so-called "State Police Bill"; to advise you whether or not it had been enacted by the people of the State of Nevada as a referendum measure under section 2, article XIX of the Constitution; and if not a referendum measure, whether or not such State Police Law could be amended.

The present State Police Law was enacted at a special session of the Legislature in 1908, chapter 4. The question on the official ballot at the General Election held November 3, 1908, submitted the approval of this law to the people as a referendum measure. At such election the question of its approval received 9,954 votes in approval and 9,078 votes in disapproval thereof. The highest total vote in that election was 24,442 votes for the Presidential Electors and the highest total vote for a State office was 23,780 votes cast for the three candidates for Justice of the Supreme Court.

Under the above statement of facts, it is the opinion of this office that the State Police bill was not approved by a majority of the electors voting at a State election so as to prevent it from being changed except by direct vote of the people. Neither was the State Police bill disapproved by a majority of the electors voting at a State election, and it, therefore, follows that the present State Police bill, chapter 4 of the Special Statutes of Nevada of 1908, sections 7434-7459 Nevada Compiled Laws, occupies exactly the same status in law as any other regular legislative enactment and is subject to such action as the 1943 Legislature may deem necessary.

Our opinion rests upon the decision of the Supreme Court of this State in the case of *Tesoriere v. District Court*, [50 Nev. 302, at pages 313-315](#) of said opinion. Section 2 of article XIX of the Constitution reads as follows:

SEC. 2. When a majority of the electors voting at a state election shall by their votes signify approval of a law or resolution, such law or resolution shall stand as the law of the state, and shall not be overruled, annulled, set aside, suspended, or in any way made inoperative except by the direct vote of the people.

When such majority shall be void and of no effect.

Judge Ducker in his concurring opinion in the above-entitled case stated that three things must occur before a law is confirmed by the people so that it cannot be amended or repealed

except by their direct vote, namely, to wit:

First, there must be a law; second, there must be the expressed wish of 10 per centum or more of the voters of the state that it be submitted to the vote of the people; and, third, a majority of the electors voting at a state election must signify approval of the law.

None of these essentials appeared in the procedure followed as prescribed by section 3 of said article 19 by which the said measure became a law. It was not a law when submitted, but a measure proposed by the legislature with the approval of the governor under the right conferred by section 3. It was not referred to the electors for their approval or rejection by the expressed wish of 10 per centum or more of the voters of the state, but by the legislature under said authority of said section 3. *It was not approved by a majority of electors voting at a state election, but by a majority of the votes cast for and against the measure. Consequently it did not by referendum become enacted into a law that could not be amended by the legislature by reason of the prohibition of section 2 of article 19. (Italics ours.)*

It is clearly in accordance with the decision of the Supreme Court that the State Police law which was submitted to the people of the State in 1908 “was not approved by a majority of the electors voting at a State election, but by a majority of the votes cast for and against the measure. Consequently it did not by referendum become enacted into a law that could be amended by the Legislature by reason of the prohibition of section 2 of article 19.”

The official returns of the 1908 election show that the approval of the Police bill received 9,954 votes, and its disapproval 9,078. If this vote represented the entire number of votes cast at such election, then, of course, there would be no question presented. The State Police law would stand approved, but such official returns show that the total vote for Justice of the Supreme Court was 23,780. A majority of this vote is 11,891 votes, thus the State Police bill received 1,937 votes less than a majority of the votes of the electors voting at the State election, and, therefore, did not receive a constitutional majority necessary to establish the State Police law as a law of this State beyond the power of the Legislature to thereafter change it.

To same effect see Attorney-General Diskin’s Opinion No. 389, Biennial Report, 1929-1930, and Attorney-general Mashburn’s Opinion No. 161, Biennial Report, 1934-1936.

Although we find no decision of this office as to the exact effect of the State Police bill, it is apparent to us that it has always been considered not as a referendum law but as a regular legislative enactment, since it has been actually amended by various legislative sessions in the past. It was amended in 1909, chapter 126; 1911, chapter 82; 1915, chapter 283; and 1923, chapter 94.

Very truly yours,
ALAN BIBLE, *Attorney-General*.

6. Public Schools—Sale of School Property.

CARSON CITY, February 8, 1943.

E.E. FRANKLIN, *Deputy State Superintendent of Public Instruction, Elko, Nevada*.

DEAR MR. FRANKLIN: This will acknowledge receipt of your letter of February 4, 1943,