

AGO OPINION NO. 51-85. CONSTITUTIONAL LAW—A senate joint resolution is not a law within the meaning of the Constitution. Carson City, July 25, 1951. Hon. Huston Mills, State Highway Engineer, Carson City, Nevada.

Dear Mr. Mills: Reference is hereby made to your letter of July 19, 1951, wherein you state the following matter and propounded an inquiry thereon: The 45th Nevada Legislature, during its session, passed **Senate Joint Resolution No. 7**, which provides for the appointment of a three-man board consisting of one legislative representative from each legislative house, and one highway technician, to become a part of the Western Interstate Committee on Highway Policy Problems to study and make recommendations concerning uniform action on matters affecting highway safety, etc. The resolution provides that such members shall be allowed per diem and traveling expenses, not to exceed \$500 for each member in any one 12-month period, and that the per diem and traveling expenses shall be paid from the State Highway Fund. We request your opinion as to the constitutionality of the Act. ***Can the Legislature appropriate money from the State Highway Fund by resolution?***

OPINION

An examination of **Senate Joint Resolution No. 7** discloses that in the closing paragraph thereof it was sought to make an appropriation of \$500 for each member of the board provided for in the resolution in any one 12-month period and which appropriation was made from the State Highway Fund. The question is, was a constitutional appropriation of public moneys made by such provision in the resolution? **Section 19, Article IV**, of the Constitution provides: "No money shall be drawn from the treasury but in consequence of appropriations made by law." **Section 23, Article IV**, provides: "The enacting clause of every law shall be as follows: 'The People of the State of Nevada, represented in Senate and Assembly, do enact as follows,' and no law shall be enacted except by bill." **Section 35, Article IV**, provides, inter alia: "Every bill which may have passed the legislature shall, before it becomes a law, be presented to the governor. If he approve [s] it, he shall sign it; but if not, he shall return it with his objections, to the house in which it originated." The Legislature then, under such constitutional provision, may pass the bill over the Governor's veto. This section contains other provisions not material here. An examination of the record discloses that **Senate Joint Resolution No. 7** was never represented to the Governor for his signature. It simply became an adopted resolution of the two houses of the Legislature and in this respect does not constitute a law. Further, even if such joint resolution could be deemed a law, yet, there is a fatal defect which prevents it from being a law as intended by the Constitution and that is the fact that such joint resolution does not contain the enacting clause required on every law, as above pointed out. The Supreme Court in **State v. Rogers**, 10 Nev. 250, held that the omission of the words "senate and" from the enacting clause of an Act of the Legislature rendered the Act unconstitutional and void. The Court in passing upon the matter said: Our Constitution expressly provides that the enacting clause of every law shall be "The people of the State of Nevada, represented in senate and assembly, do enact as follows." This language is susceptible of but one interpretation. There is no doubtful meaning as to the intention. It is, in our judgment, an imperative mandate of the people in their sovereign capacity to the legislature, requiring that all laws to be binding upon them shall, upon their face, express the authority by which they were enacted, and as this act comes to us without such authority appearing upon its face, it is not a law. The Constitution requiring that no money shall be drawn from the treasury but in consequence of appropriations made by law and **Senate Joint Resolution No. 7** not being a law within the meaning of the Constitution, it is our opinion that no valid appropriation of money has been made by the adoption of such resolution.

Respectfully submitted,

W.T. MATHEWS Attorney General
