

Veto, Passage of Bill Over—Authentication Of.

When a bill, upon reconsideration, passes both houses by the constitutional majority the bill becomes a law, but the same should be authenticated by the certificate of the President of the Senate and Speaker of the House of Representatives and then returned to the governor. The duty of such authentication by the Speaker of the House and President of the Senate is merely ministerial.

March 7, 1905.

Hon. Nathan Godfrey, Chief Clerk, House of Representatives, Helena, Montana:

Dear Sir:—Pursuant to your request for opinion as to method of procedure with a bill vetoed by the governor, and by both Senate and House passed over such veto by a two-thirds vote, I give you the following:

Section 12, Article VII of the Constitution, gives the method of procedure by the legislative assembly, in case of a veto by the governor, in the following language:

"If he (the governor) do not approve (the bill) he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members present agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present in that house it shall become a law notwithstanding the objections of the governor."

Such a bill having become a law under the constitutional provisions above quoted, there now arises the question as to the procedure to be adopted in showing legislative action thereon to make the same authentic as a law, notwithstanding the governor's veto. Such procedure is fully outlined by Section 272, Political Code, wherein it is provided substantially as follows: When the bill, upon reconsideration, passes both houses by the constitutional majority, the bill must be authenticated as having become a law by a certificate endorsed or attached to the bill, or endorsed or attached to the copy of the (governor's) statement of objections, signed by the president of the senate and speaker of the house of representatives, and must then be delivered to the governor and by

him deposited with the laws in the office of the secretary of state.

It seems clear to me under the provisions of the constitution and of the law above referred to, that the action of the president of the senate and speaker of the house and governor, after the joint assembly. have passed the law over the governor's veto, is purely ministerial, and that they, each and all, can be compelled to perform their duty in accordance with the requirements of the law. Such a bill is in truth and in fact already a law but it is as yet without the proper authentication, and the officers charged with the duty of authentication must do so as a ministerial act. See *Harpenging vs. Haight*, 39 Cal. 189, and also, *State vs Deenny*, (Ind.) 4 L. R. A. 65.

Yours respectfully,

ALBERT J. GALEN,
Attorney General.