

125. Elections--Primary Elections--Nominations--Nomination Paper--Filing Fee.

The fees required for filing nomination papers by sec. 9, chap. 3, of the Election Law (Stats. 1913, 514), must be paid, even though, in a certain party, there is no contest for nomination to the respective offices to be filled.

Carson City, July 9, 1914.

MR. THOS. M. FAGAN, State Secretary, Socialist Party, Tonopah, Nevada.

MY DEAR SIR: I am in receipt of yours of June 21, requesting an opinion on certain portions of the primary election law.

You have succinctly stated your request in your letter, and, therefore, for the purpose of answering it I will quote the statement of your letter and the question asked:

Now, for candidates of the Socialist Party there will be no contest for any office, and consequently no candidates for office can be put on the official ballot, but the nominations must be certified by the Secretary of State.

Inasmuch as the filing fees are supposed to be levied for the purpose of defraying the expenses of the primary election, it would seem as though that would relieve us from the expense, as we are not putting any expense on the State in this matter.

The question presented by your letter is whether or not, there being no contest in the Socialist Party in the primary election and no Socialist primary ballots being necessary, shall the candidates pay the filing fees required by section 9 of chapter ... of an Act entitled "An Act relating to elections and removal from office," approved March 31, 1913, pp. 493-510, Statutes of Nevada, 1913.

You will note that the foregoing section provides that the candidate shall pay the fee required by the section. It has nothing to do with parties, but with the candidate himself. While it may be true that the filing fee is required for the pose of defraying the expenses of the primary election, yet there is nothing in section 9 or in any part of the primary or general election Act, which so states. It may have that purpose it may have also the additional purpose of being a restriction upon candidates for nominations. The filing fee is required of the candidate, and not the party. If your contention were good, then if there be no contest for any given office in any of the other parties, the candidate would not have to pay any fee, because his name would be certified on the general election ballot, and would not go upon the primary election ballot.

Furthermore, so far as the law is concerned, the Secretary of State could never know until the last minute of the last day whether or not there would be a contest in the Socialist Party for any given nomination or for all of the nominations. I am further confirmed in my opinion by

section 7 of chapter 5, page 550, of the same Act, which provides that independent candidates for office shall pay the same fees as candidates on the primary ballot. In other words, if where the candidate is nominated by petition, and there is no primary or primary expense incident to his nomination, yet the candidate is required to pay the fee.

I am, therefore, of the opinion that it will be necessary for the candidates of the Socialist Party to pay the fees required by said section 9 of chapter 3 in order to be certain that their candidates will appear upon the official ballot.

Mr. Grant Miller some time ago spoke to me concerning this same matter, and indicated that he would probably desire to contest this provision of the law. I am, therefore, sending him a copy of this letter in order that he may be advised as to what my advice will be to the Secretary of State, and, if he desires, the matter may be tested by appropriate action in the Supreme Court.

Respectfully submitted,

GEO. B. THATCHER, Attorney-General.

126. Elections--Registration--Notice of Closing--Nomination by Petition of Electors.

1. Section 6, chapter 2, of the General Election Law (Stats. 1913, 496) requiring Registry Agent to publish notice of close of registration, does not apply to primary elections, but to general elections only.

2. Under section 6, chapter 5, of the General Election Law (Stats. 1913, 550) all nominations by petition of electors must be filed not less than ten days prior to the first of September of the year in which the election shall take place.

Carson City, July 14, 1914.

MR. HENRY M. LILLIS, Registry Agent, Las Vegas, Nevada.

DEAR SIR: I am in receipt of your favor of the 11th instant, asking interpretation of section 6 of chapter 2 and section 6 of chapter 5 of the new election law.

The first-mentioned section provides for twenty days publication of notice of close of registration by the Registry Agent, and you inquire: "Does it apply to primary as well as general election?" This section is an exact reprint of section 6 of an Act entitled "An Act to provide for registration of names of electors and to prevent fraud at elections," appearing in the Statutes of 1869, p. 141. It is contained in chapter 2 of the election Act, which said chapter pertains exclusively to the registration of electors, and it provides that the publication therein specified must be made "for twenty days before the expiration of the time provided for registration prior to any general election and for ten days before the expiration of the time provided by law for registration prior to any special or municipal election.