

HON. GEORGE BRODIGAN, *Secretary of State, Carson City, Nevada.*

DEAR SIR: I am in receipt of your favor of the 2d instant, requesting opinion "as to whether in the case wherein two candidates file nomination papers for a nonpartisan office, to which only one person can be elected, the names of such candidates should be certified by your office to the various County Clerks."

The purpose of the primary election is to select candidates whose names will appear upon the general election ballot. Efforts have constantly been made to lessen the expense of this election as much as possible. Such is the provision that where there is no party contest for an office the name of the applicant for the nomination shall not be printed upon the primary ballot.

At present Hon. P.A. McCarran and Hon. Edward A. Ducker are the only ones who have filed as nonpartisan candidates for Justice of the Supreme Court, and Hon. John Edwards Bray and W.J. Hunting are the only persons who have filed as nonpartisan candidates for Superintendent of Public Instruction. Between these two sets of candidates there is no contest at present, and it would be an unnecessary expense to place their names upon the ballot at the primary election.

It is, therefore, the opinion of this office that it is not necessary for your office to certify to the various County Clerks the names of the applicants for nomination in a case where only two candidates file nomination papers for the same nonpartisan office. Such persons stand as the nonpartisan nominees at the general election and at the proper time their names should be certified to the various County Clerks to be placed upon the ballot for the general election.

Yours very truly,

GEO. B. THATCHER, *Attorney-General.*

BY EDW. T. PATRICK, *Deputy.*

**215. Elections—Nomination by Petition of Electors—Judicial Officers—Justices of the Peace.**

The prohibition in section 31, Stats. 1917, p. 288, against incorporating in the same petition more than one nomination for the same office does not prevent other candidates from being nominated for the same office by petition.

Any number of persons may be nominated for the same office by separate and distinct petitions.

Justices of the Peace are judicial officers.

Candidates for Justice of the Peace can be nominated only in the primary election and may not be nominated by petition.

CARSON CITY, August 5, 1918.

MR. W.H. FRYE, *Attorney at Law, Lovelock, Nevada.*

MY DEAR MR. FRYE: I am in receipt of yours of August 4th, requesting my opinion upon several questions.

As to your first question, the prohibition in Stats. 1917, p. 288, sec. 31, is against incorporating in the same petition more than one nomination for the same office. This does not prevent other candidates from being nominated for the same office by petition. Any number of persons can be nominated for the same office by separate and distinct petitions.

As to your second question, I am of the opinion that Justices of the Peace are judicial officers and within the meaning of subdivision 3 of section 1 of the Primary Act. (Stats. 1917, p. 276.)

I am therefore of the opinion that candidates for Justice of the Peace can only be nominated in the primary election and may not be nominated petition.

Hoping this answers your questions and thanking you for your kindly expressions of goodwill, I am

Yours very truly,  
GEO. B. THATCHER, *Attorney-General*.

**216. Practice—Justice of the Peace—New Trials.**

It is not within the power of a Justice of the Peace to reopen a case or grant a new trial.

CARSON CITY, August 5, 1918.

HON. E.A. BLANCHARD, *Justice of the Peace, Yerington, Nevada*.

MY DEAR JUDGE: I am in receipt of yours of the 3d instant, with reference to the powers of a Justice Court to grant a new trial after a judgment has been entered. I agree with your opinion that sections 5321-5324 of the civil code on new trials are not applicable to proceedings in the Justice court.

New trials and appeals in the Justice Court are governed by chapter 83, section 3788, *et. seq.*, of the Civil Practice Act. Appeals are provided for in these sections, but there is no provision either in this chapter or at any other place authorizing the Justice of the Peace to grant new trials of actions in his court. I call your attention also to the provisions of Rev. Laws, 5815, which provides as follows:

Justice's Courts, being courts of peculiar and limited jurisdiction, only those provisions of this Act which are in their nature applicable to the organization, powers and course of proceedings in Justice's Courts or which have been made applicable by special provisions in this title, are applicable to Justice's Courts and the proceedings therein.

You will observe that the Legislature, by the provisions of this section, specifically stated that the Justice Courts are of limited jurisdiction and that the provisions of the code do not apply unless in their very nature they are made applicable to the proceedings in the court or are specially referred to in this Act. New trials are not necessarily applicable to the powers and proceedings in the Justice Courts, and there is no provision specifically adopting as part of the procedure in the Justice Court the provisions of sections 5321-5324. The very fact that the District Court provides that upon appeals the cases shall be tried *de novo* shows that the new trials were to be granted in the District Court itself.

I quite agree with you in your decision that it was not within your power to reopen the case or grant a new trial.

Yours very truly,  
GEO. B. THATCHER, *Attorney-General*.

**217. Elections—Registration—Transfers.**

All of the provisions of the old registration law relating to transfers after close of