

CARSON CITY, August 29, 1918.

HON. G.E. ANDERSON, *Deputy Superintendent of Public Instruction, Las Vegas, Nevada.*

DEAR SIR: I am in receipt of your favor of the 26th instant, wherein you state that there are no candidates for members of the County Board of Education in Clark County for the coming election, although one long-term and one short-term member should be elected. You inquire as to the status of the members of the board whose terms are about to expire.

This matter was settled by the provisions of Rev. Laws, 3418, which states:

Each person elected as herein provided shall enter upon the duties of his office on the first Monday in January next following his election, and shall hold office until his successor is elected and qualified.

The statute points out but one way in which the successor can be selected—namely, by election, and, as there are no candidates for these offices, there can be no successors elected at the coming election, and these persons will hold their positions, unless they resign, until the general election in 1920.

Yours very truly,

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

BY EDW. T. PATRICK, *Deputy.*

224. Elections—Nomination—Nomination by Petition of Electors—Time—Nonpartisan Officers.

A nomination by petition of electors filed on August 24, 1918, complies with section 31 of the primary election law (Stats. 1917, p. 287) requiring the filing of such petition at least ten days before the primary election.

A nomination to a nonpartisan office cannot be made by petition of electors.

CARSON CITY, August 29, 1918.

MRS. EDNA COVERT PLUMMER, *District Attorney, Eureka, Nevada.*

DEAR MRS. PLUMMER: In response to your favor of the 26th instant, concerning election laws, let me advise you as follows:

1. It appears that the nomination by petition of electors for the office of Constable was presented to your clerk on the afternoon of the 24th and your County Clerk wants to know if he shall file the same, contending that it should have been filed with him on the 23d.

Section 31 of the primary laws (Stats. 1917, p. 287) provides for the filing of such petition at least ten days before the primary election. Such election this year is to be held on the 3d day of September. By applying the familiar rule in computation of time that the first day is to be excluded and the last to be included, it would appear that this petition was filed ten days before the primary election and, therefore, should be received by the Clerk.

2. It appears that two nonpartisan petitions for the office of Justice of the Peace were received by your County Clerk. These, you properly advised the Clerk, should not be received by him, for the last paragraph of section 31, above quoted, (p. 288) expressly provides that no nomination for a judicial or school office shall be made by petition of electors, but candidates for all such offices shall be nominated at the primary election.

Your Clerk could not receive these petitions, not only because the time for filing had expired, but because such nominations could not be made by petition of electors. I think, however, that your Clerk should retain these petitions and put the names of those thus nominated upon the ballot for the general election if these petitions represent 5 per cent of the total vote cast for Representative in Congress at the last preceding general election in the county. Under the provisions of section 25, page 286, of the primary election law, if they do not contain such requisite 5 per cent, then no one is nominated for the office, and no one could be voted on for such office at the general election and the position will have to be filled by your County Commissioners.

Trusting this will give you the information desired, I am

Yours very truly,

EDW. T. PATRICK, *Deputy Attorney-General.*

225. Water and Watercourses—Water Commissioners.

Section 52 of the Water Law, providing for the appointment of Water Commissioners (Stats. 1913, p. 205) applies to adjudicated streams only.

Upon the appointment of Water commissioner it is the duty of the County Commissioners to draw warrants from month to month for the salary and expenses of the Commissioner. At the close of the season it is the duty of the State Engineer to prepare and certify a list of the owners and areas of land served by such Water Commissioner and transmit the same to the Board of County Commissioners.

CARSON CITY, September 9, 1918.

HON. GEORGE A. WHITELEY, *District Attorney, Ely, Nevada.*

DEAR SIR: Your favor of the 6th instant in relation to section 52, (Stats. 1913, p. 205) of the water law received.

Mr. Thatcher has several times held that this section does not apply except to a stream in which the rights of the various owners have been adjudicated. Assuming that your inquiry applies to such a stream and that a Commissioner has been appointed therefor, I am of the opinion that it is the duty of the County Commissioners to draw warrants from month to month for the payment of the salary and expenses of the Commissioner and at the close of the season it is the duty of the State Engineer to comply with the other portion of the section, namely, to prepare and certify a list of the owners and areas of land served by such Water Commissioners. Such board shall thereupon proceed to collect the money expended by the Water Commissioner and make the amount unpaid a lien upon the property served.

Yours very truly,

EDW. T. PATRICK, *Deputy Attorney-General.*

226. Elections—Independent Candidates—Nonpartisan Candidates—Nomination by Petition of Election—Justices of the Peace.

A nomination to a nonpartisan office cannot be made by petition of electors but candidates therefor should be nominated at the primary election.

CARSON CITY, September 9, 1918.