

**231. Elections—Justices of the Peace—Nomination by Petition of Electors—
Holdovers.**

A Justice of the Peace may not be nominated by petition of electors.

Candidates for the office of Justice of the Peace should be nominated at the primary election.

If no such nomination is made at the primary election no one is contesting for the office, and the incumbent is entitled to hold office without further election for two years from the expiration of the term of office to which he was elected.

CARSON CITY, September 21, 1918.

MR. W.S. RAINE, *Palisade, Nevada.*

DEAR SIR: Your favor of the 18th instant, in reference to matter of Justice of the Peace of your township, received. Your explanation was what was needed and I now can advise you on the law.

As it appears to me at present the facts are as follows: Mr. Daniel Downing is the incumbent of this office and no one filed for the office in the primary election. You and another person are circulating petitions for the office with the expectation of having them filed by the County Clerk, and your names appear on the ballot to be used at the general election as aspirants for the office, and that the one receiving the highest vote at such election will be declared the candidate elected. I am sorry to say that such is not the law.

The provision for nomination by petition of electors is found in section 31 of the Primary Act, Statutes of 1917, p. 287. This applies to any office not a judicial office. A Justice of the Peace holds a judicial office. The last paragraph of said section 31 provides that:

No nomination for a judicial or school office shall be under the provisions of this section, but all such candidates shall be nominated at the primary election.

In vie of this provision it is apparent that your petition of electors would be invalid and your County Clerk should disregard the same.

There is a further matter to be considered in connection with this situation. Rev. Laws. 2782, provides for the election of Justices of the Peace and Constables, and this section states that such officers hold their office "until their successors are elected and qualified." As there was no nomination for this office made at the primary election and there will be no one contesting for the office at the general election, it is my opinion that Mr. Downing is entitled to hold this office without further election for two years from the 1st of January, 1919, and, there being no vacancy in the office, the County Commissioners are powerless to fill the same by appointment.

Yours very truly,

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

232. Corporation—General Corporation Law.

The amendment to section 89 of the general corporation law, as bearing on Stats. 1917, p. 193, is effective and said amended section is now a portion of the general corporation law.

CARSON CITY, September 27, 1918.