

to be made, to commute these periodical payments into a lump-sum settlement. In each case where commutation is made by the Commission, facts must exist which warrant the Commission in exercising this discretion.

When a case is presented to the Court by an employee against the Commission, under the Nevada Industrial Insurance Act, the proceedings in court are considered a trial de novo, and it becomes the duty of the Court to hear the entire case, and to pass upon all questions involved or presented. The Commission has no further power in the premises. It could perform no function in the matter after the suit is brought and every question involved is subject to examination and disposition of the District Court. The District Court has the same power to award a lump-sum settlement in each case as the Commission. The provisions of section 25, supra, become equally applicable in the proceedings before the District Court.

Where a lump-sum award is made by the Court, facts must appear in the complaint which justify such award and in the absence of such allegations and proof, the award in lump sum cannot be made.

It is my opinion, therefore, in answer to the first question, that the District Court may, when the proper showing is made, in entering judgment, direct that the judgment be paid in a lump sum, conditioned, however, that the complaint recite facts and the proof establish matters which will warrant the Court in exercising its discretion and allowing a lump sum.

(2) In reference to the second question presented, the provisions of subdivision 10, section 25 of the Nevada Industrial Insurance Act, the allowance of a lump-sum settlement in death-benefit cases, is prohibited. Subdivision 10 of section 25 provides:

In such cases where compensation is awarded to the widow, dependent children or persons wholly dependent, no lump-sum settlement shall be allowed.

Respectfully submitted,

M.A. DISKIN, *Attorney-General*.

NEVADA INDUSTRIAL COMMISSION, *Carson City, Nevada*.

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## SYLLABUS

### **147. Elections—Primary Elections—Instructions on Ballot as to Number To Be Voted for Governed by Number To Be Elected.**

Primary Election Laws, section 12, subdivision (e), as amended Stats. 1921, c. 248: Names of candidates on ballot are grouped according to office sought. Each group is preceded by instruction as to how many to vote for, depending on number to be nominated, as fixed by statute.

Stats. 1923, p. 51: Section 22 amends above provision so that number to be voted for depends, not upon the number to be nominated, but upon number to be elected. Thus, in case of office of Justice of the Peace where only one is to be elected, instruction should be "Vote for one."

## INQUIRY

CARSON CITY, July 25, 1924.

In preparing the Official Ballots for Nonpartisan Candidates for Justice of the Peace, are the words "Vote for one" or "Vote for two" to be inserted. After reading section 22, page 51, Stats. 1923, I am somewhat puzzled which would be correct.

#### OPINION

The above question is answered by subdivision (e) of section 12 of the primary law, as amended by chapter 43, Stats. 1923, and not by section 22 of said law, as amended.

Subdivision (e) of section 12 of the Primary Law of 1917, as amended by chapter 248, Stats. 1921, reads in part, as follows:

The names of the candidates to be grouped according to the office for which they are candidates and the names in each group shall be placed with the surname first, arranged alphabetically, and each group shall be preceded by the designation of the office for which the candidate seeks nomination, and the words "Vote for one," or "Vote for two," or more, according to the number to be nominated.

The right to "Vote for one" or "Vote for two," as the case may be, is conferred and limited by the statute, and, under the language of the statute above quoted, the Supreme Court, in State v. Jepsen, 46 Nev. 193, at pp. 195-196, uses this language:

Subdivision (e) of section 12 of the Act as amended, which is substantially the same as it was when the Act was originally adopted, states what instructions shall be placed on the primary ballot whether the candidate be partisan or nonpartisan. So far as it is applicable to the point at issue, it provides that the names of the candidates shall be grouped on the primary ballots according to the office for which they are candidates, and the names in each group shall be preceded by the designation of the office for which the candidate seeks nomination "and the words 'Vote for one' or 'Vote for two,' or more, according to the number to be nominated." The statute provides no different instructions for a nonpartisan office; consequently "the words 'Vote for one' or 'Vote for two,' or more, according to the number to be nominated," apply alike both to partisan and nonpartisan candidates, and the statute means that each group of names of candidates on the primary ballots shall be preceded by the words "Vote for one," or "Vote for two," or more, according to the number to be nominated by the political party or body nominating candidates for the office or position to be filled. If the candidates are partisan, and but one person can be elected to that office at the general election, then each political party can nominate but one candidate for that office; but if the candidates are nonpartisan—that is if they are seeking the nomination for a nonpartisan office, and but one person can be elected to that office at the general election—the law clearly provides that two persons may be nominated for that office by the electors as a whole, who vote at the primary election. Since there were three candidates for the nomination for each of the nonpartisan offices to be filled, mentioned in the amended petition, and since two candidates were to be nominated for each of those offices, under the expressed language of the

Legislature, it follows that the words "Vote for two" should precede the names of each group of candidates mentioned in the amended petition.

But the Legislature of 1923 amended this provision of the law, and made the right to "Vote for one" or "Vote for two" to depend, not upon the number to be nominated for the office, but upon the number to be elected to that office, so that if there are two candidates to be elected to an office, as two members of the Board of Education, or two Regents of the University, or two members of the Assembly, the instructions should be "Vote for two" or more, according to the number to be elected; but, in all cases where there is but one to be elected to an office, the instruction should be "Vote for one."

In the specific instance mentioned, as there is, under the present statute, but one Justice of the Peace to be elected, in each township, the instruction should be "Vote for one."

By order of the Attorney-General:

Respectfully submitted,

THOMAS E. POWELL, *Deputy Attorney-General.*

HON. L.E. GLASS, *County Clerk, Tonopah, Nevada.*

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## SYLLABUS

### **148. Elections—Primary Election—Independent Candidate Should be Registered as Independent.**

The spirit and purpose of primary law is that each political party may have opportunity to nominate its candidate. If a person who runs independently presents himself for registration, he should be registered "Independent" or without party designation, otherwise he might be challenged on ground that "he (the voter) does not belong to the political party designated upon the register."

## INQUIRY

CARSON CITY, July 25, 1924.

I find no provision in the statutes as to how a person running independent should be registered. If he is running independent for Constable should he be registered as an independent or can he be registered as a Republican or Democrat and vote at the primary election? Although the names of the independent candidates do not appear on any ballots at the primary election.

## OPINION

While there is no specific provision of the statute prohibiting one who files for an independent nomination for an office, from participating in a primary election, it would plainly be a violation of the purpose and spirit of the primary law to permit him to do so. The purpose of the primary law is to permit and confer the right upon all persons who belong to a political party, and presumably who expect and desire to support its candidate after the nomination, to take part