

may be practicable, among said banks in the city of Lovelock * * *.

As I view the provisions of this section, the office of County Treasurer is not to be included in the words, "officials of Pershing County." and the money in the hands of the County Treasurer cannot be considered as "funds of said county appropriate for bank deposits."

Section 1687 Revised Laws of Nevada, 1912, provides that:

The County Treasurers of the several counties of this State may, when a private or incorporated bank is located at the county-seat, deposit, with unanimous consent of their bondsmen, county funds in such bank or banks upon open account * * *.

The funds in the possession of the County Treasurer cannot be said to be "funds of said county appropriate for bank deposit" until the provisions of section 1687 have been complied with, and consent of the bondsmen first had and obtained.

The Supreme Court, in the case of State v. Nevin, 19 Nev. p. 162, clearly defined and sets forth the duty and responsibility of County Treasurers in respect to funds coming into their possession. In this case the Court held that in an action brought against the County Treasurer it was no defense to plead that the shortage was caused by robbery.

I conclude, therefore, that:

(1) The question here presented can be determined without passing upon the constitutionality of the law.

(2) That the County Treasurer of Pershing County and the funds in his possession are not to be considered as coming within the provisions of section 18, Stats. 1919, and therefore it is not the duty of the County Treasurer to deposit such funds in local banks, but such deposit may be made when the provisions of section 1687, supra, are complied with.

(3) The county Treasurer and his bondsmen are always liable for county funds, and the deposit of such funds in banks in no way relieves the liability created under the Nevada statute.

Authorities examined:

State v. Commissioners of Washoe County, 22 Nev. 203.

Yarnell v. City of Los Angeles, 25 Pac. 767.

Rothschild v. Bantel, 91 Pac. 803.

People v. Wilson, 49 Pac. 135.

Respectfully submitted,

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

HON. BOOTH B. GOODMAN, *District Attorney, Lovelock, Nevada*.

SYLLABUS

153. Elections—Primary Election—Party and Nonpartisan Ballots—Voter To be Given Only Such Ballot as His Registration Indicates.

Stats. 1923, p. 50, section 12: Separate ballots shall be printed for each party and for nonpartisan candidates.

Same, subdivision (i) determines size, shape, etc. of ballots.

Same, subdivision (j) provided for nonpartisan ballot which shall omit names of party candidates.

Those who fail to designate party affiliations shall receive and vote nonpartisan ballot only.

INQUIRY

CARSON CITY, August 8, 1924.

Owing to the fact that this office has received many inquiries concerning questions relating to the primary election, printing of ballots, nonpartisan candidates, "Vote for one," "Vote for two," it has been deemed advisable to prepare an opinion and mail the same to all officers upon whom the law places the duty of having prepared for printing the official primary ballots.

OPINION

Printing of Ballots: Section 12, Election Law, as amended 1923, provides in part:

* * * and separate official ballot for each party and for nonpartisan voters shall be printed and provided for use in each precinct, but such ballots must be alike in the designation of nonpartisan candidates.

Subdivision (i), section 12, provides:

The County Clerk shall determine the size and shape of the ballot in such a way as to conform to the provisions of this Act * * *. Party ballots shall have an extra heavy black vertical line between the column or columns on the left in which the names of candidates for party offices shall be placed and a column on the right in which the names of candidates for nonpartisan offices shall be printed.

Subdivision (j), section 12, provides:

In addition to the party ballots provided for in this section the County Clerk shall prepare and have printed a "Nonpartisan Primary Ballot" which shall be the same, except as to size thereof, as the other official primary ballots; *provided*, that the names of all party candidates shall be omitted therefrom.

The County Clerk shall, therefore, have printed, irrespective of the fact as to whether or not a contest exists in the Democratic or Republican party, a ballot for the respective parties for the primary election, containing, first, if there is a contest in the party, the names of the respective candidates for the several positions, together with the names of the nonpartisan candidates. If no contest exists in the Republican or Democratic parties, an official primary ballot shall be printed for the Republican and Democratic parties, and such ballot shall only contain the names of the nonpartisan candidates.

In addition to the Democratic and Republican primary ballot, there shall be printed "a nonpartisan primary ballot, which shall be the same, except as to size thereof, as the other official primary ballots; *provided*, that the names of all party candidates shall be omitted therefrom."

Under the law, therefore, it is necessary that there be printed an official Democratic primary ballot and an official Republican primary ballot and a nonpartisan primary ballot. In the event a contest exists in the Democratic party, there shall be printed upon such Democratic ballot the names of the candidates for the respective positions, together with the names of the candidates

for the respective positions, together with the names of the nonpartisan candidates. In the event no contest exists in the party for the respective positions, then there shall appear on the Democratic ballot the names only of the nonpartisan candidates.

There shall be printed a Republican primary ballot containing the names of the party candidates for the respective positions in the event there is a contest, together with the names of the nonpartisan candidates. If no contest exists in the Republican party, for the respective positions, there shall be printed a ballot containing the names only of the nonpartisan candidates. A nonpartisan ballot shall be printed containing the names of the nonpartisan candidates.

Upon the nonpartisan ballot the words "Vote for one" shall appear thereon, if there is to be but one candidate to be elected to such office at the ensuing general election.

Those who fail to designate their party affiliations when registering are entitled to receive and vote a nonpartisan ballot only.

Respectfully submitted,

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

To County Clerks and Election Officials.

SYLLABUS

154. Election—Registry Card—Duty of County Clerk to Accept though Irregularly Marked by Applicant Who Cannot Write.

Election Laws 1924, sec. 12; Rev. Laws, 6294(7), 3913: It is the duty of the County Clerk to accept registry card of applicant which bears his name, and, in place of usual cross or (x), his thumb print and words "his mark," and signature of witness is sufficient.

INQUIRY

CARSON CITY, August 15, 1924.

You request an opinion upon the following facts:

"Has the County Clerk the right to decline to place upon the registry list of the county, the name of an applicant for registration whose registry card is not signed but which bears a thumb print or finger print in lieu of the signature required by law?"

OPINION

The card of the individual in question has been submitted with this request and it appears that the name of the individual is signed to the card and to the right of this signature appears a thumb print in ink, and over and below said thumb print, are written the words "his mark," Witness, and the names of the witness is signed to said card.

Section 12, Election Laws 1924, as compiled by the Secretary of State, provides: