

provides that county commissioners are specifically empowered to erect a "jail, and such other buildings as may be necessary." A sheriff's office would certainly be included in this last provision. These

are both necessary buildings in any county of the State, and we can find no restriction in the power granted which would prevent constructing an addition to the county courthouse for these purposes, rather than erecting a new building altogether. For all intents and purposes, construction of such addition is equivalent to erecting a new building, and we believe, within the purview of the authority granted by the Legislature.

This interpretation finds support in par. 13 of the above mentioned section which lists as additional powers of boards of county commissioners, the following:

To do and perform all such other acts and things as may be lawful and strictly necessary to the full discharge of the powers and jurisdiction conferred on the board.

In effect, the provisions of this paragraph have been applied in determining the power of boards of county commissioners in this State. In *Sadler v. Eureka County*, [15 Nev. 39](#), the court said:

The law is well settled that county commissioners can only exercise such powers as are especially granted, *or as may be necessarily incidental for the purpose of carrying such powers into effect.* * * *. (Italics supplied.)

It is therefore the opinion of this office that the Board of Lyon County Commissioners have the authority under the law, to construct the addition to the county courthouse for the purposes contemplated.

Respectfully submitted,

HARVEY DICKERSON
Attorney General

By: C. B. Tapscott
Deputy Attorney General

OPINION NO. 56-194 ELECTIONS—Nonpartisan declaration of candidacy for office of constable creates no candidacy for that office.

Carson City, August 6, 1956

Honorable Peter Breen, District Attorney, Esmeralda County, Goldfield, Nevada.

Dear Mr. Breen:

In your letter of August 1, 1956 you request the opinion of this office upon the following facts and questions:

In Esmeralda County an individual filed a nonpartisan declaration of candidacy for the office of constable on July 16, 1956 for the purpose of having his name placed upon the primary election ballot.

QUESTIONS

Is such person a candidate for nomination to the office of constable?

Can such person be placed on the ballot for the November General Election?

OPINION

The answer to both questions is in the negative.

The designation in Sec. 4 of the Primary Election Law (Chap. 155, 1917 Stats. as amended) of judicial and school offices as nonpartisan offices, by inference, excludes other elective offices from that classification. *See* in connection with the rule of statutory construction to the effect that an expression of one, by inference, excludes the other, Sutherland Statutory Construction, 3rd ed., Sec. 4915.

The office of constable is neither a judicial or a school office and is therefore not a nonpartisan office.

Sec. 5 of the same law provides that the name of no candidate shall be printed on the ballot to be used at a primary election unless he shall qualify by filing a declaration of candidacy, or by an acceptance of a nomination and by paying a fee as provided in this Act. Thereafter in this section follows the form of declaration of candidacy for office and requiring a statement of party affiliation. Immediately following this, the section provides that no candidate for a judicial office or a school office shall certify as to his party affiliations.

Thus the law expressly enjoins the printing of the name of any candidate on the primary ballot unless he has filed his declaration as provided by the Act. The person in question having failed to file his declaration of candidacy in proper form on or before July 16, 1956 cannot be placed upon the primary ballot as a candidate, and is therefore not a candidate.

It goes without reference to authority that if he is not nominated in accordance with the law his name cannot appear on the general election ballot as a candidate.

Had he desired nomination for office as an independent candidate, he would have had to follow the procedure set forth in Sec. 31 of the Primary Election Law.

Respectfully submitted,

HARVEY DICKERSON
Attorney General

By: William N. Dunseath
Chief Deputy Attorney General

OPINION NO. 56-195 FISH AND GAME COMMISSION—Puerto Ricans who are citizens of the United States and residents of Nevada entitled to purchase and use hunting license in the State, and are subject to same requirements in that connection as other persons.

Carson City, August 7, 1956

Mr. Frank W. Groves, Director, Fish and Game Commission, 51 Grove Street, Reno, Nevada.