

without encumbrance. Such being the content of the “Motor Vehicle Safety Responsibility Act” we are clearly of the opinion that leased vehicles, both trucks and passenger cars, under the control of an operator as defined in the Act, who has rights of purchase either under a conditional sales contract or under a lease contract with right of purchase, is entitled to the benefits of the Act, and such benefits are not less comprehensive than if he was an outright owner without debt or encumbrance upon such vehicle.

Respectfully submitted,
HARVEY DICKERSON
Attorney General
By: D. W. Priest
Deputy Attorney General

OPINION NO. 56-205 ELECTIONS—A nonpartisan candidate for public office is nominated when filing closes, if such candidate is opposed by only one other candidate. From the time of nomination he is powerless to withdraw his name from the general election ballot.

Carson City, September 10, 1956

Honorable L. E. Blaisdell, District Attorney, County of Mineral, Hawthorne, Nevada

Dear Mr. Blaisdell:

You have requested an opinion of this office upon the following stated facts:

FACTS

A candidate in Mineral County has filed a declaraton of candidacy for the nonpartisan office of county school trustee. One other candidate has filed for the same post representing, or as a candidate from, the same geographic area. (The term “geographic area” has reference to Secs. 62 and 63 of the School Code enacted in 1956). There being only two candidates for the one post the names did not appear upon the primary ballot. This candidate has now requested the county clerk to remove her name from the general election ballot.

QUESTION

May this candidate under these circumstances now withdraw?

OPINION

Sec. 71 of the School Code of 1956 provides that school trustees shall be elected as provided in:

- (a) The General Election Laws of 1917, as amended,
- (b) The Absent Voter Ballot Law, and
- (c) The law of 1951 providing for the use of voting machines. Subdivisions (b) and (c) have no application to this problem. It follows that school trustees are to be elected by a procedure in conformity with candidates for office generally and specifically candidates for nonpartisan offices.

One must, in filing for an elective office in Nevada, file a declaration of candidacy. The form of the declaration of candidacy for candidates of a political party is found in Sec. 2408 N.C.L.

1943-1949 Supp. (Stats. of Nevada, 1947, p. 476). The section provides that candidates for nonpartisan office are to file the same declaration, in content, except that the candidate shall not certify as to his political party or political affiliation. The declaration is in affidavit form, and a portion thereof pertinent to this question reads as follows: "That I will accept such nomination and not withdraw."

Insofar as the content of the declaration of candidacy was concerned, this language, "that I will accept such nomination and not withdraw," was present at the time of the two Nevada

Supreme Court decisions hereinafter cited.

In *State v. Hamilton*, [33 Nev. 418](#), one T. V. Eddy, duly filed for the Republican nomination for District Judge of Esmeralda County, had been nominated, when, because of his reason assigned, namely, ill health, he requested that his name be stricken from, and not included upon, the general election ballot. The Republican County Central Committee was in accord. The Supreme Court ruled that having been nominated he had no right to withdraw.

In *State v. Brodigan*, [37 Nev. 458](#), the matter also involved the filing under party designations, for the office of Attorney General. The court held that after nomination, the right to withdraw no longer existed.

We are not able to make a distinction as to the right by reason of the fact that the candidates for county school trustee are nonpartisan. When the office to be filled is nonpartisan and only two file for the office, making it unnecessary for the names to appear upon the primary ballot, the nomination exists and is fixed as of the passage of the hour and date set by law for the closing of

filing. At that moment the candidates are nominated, as fully and effectually as a candidate for a party nomination is nominated by a favorable vote in a primary election.

We are of the opinion that a nonpartisan candidate for a public office in Nevada is without power to withdraw his name from the general election ballot, from the time of his nomination, and that such nomination is existent from the time that filing for the office is legally closed, if he is opposed by only one other candidate.

The question is therefore answered in the negative.

Respectfully submitted,

HARVEY DICKERSON
Attorney General

By: D. W. Priest
Deputy Attorney General

OPINION NO. 56-206 TAXATION; STATE PROPERTY—Lands lying within an irrigation district and acquired by State through State Highway Department not subject to assessment for operation and maintenance of such district nor for retirement of county bonds issued to assist construction of dam in this district.

Carson City, September 11, 1956

Mr. Chester C. Taylor, Engineer-Manager, Washoe County Water Conservation District, Room 200, Title Insurance Building, Reno, Nevada

Dear Mr. Taylor:

Reference is here made to your letter of recent date wherein you state that over the past several years the Nevada State Highway Department has acquired certain lands lying within the Washoe County Water Conservation District, but has paid no assessments or taxes thereon toward operation and maintenance of said district or for bond retirement purposes. We understand that the lands in question were acquired for the sole purpose of a right-of-way for widening, straightening and otherwise improving a state highway running through the said district. Also, that certain portions of said lands have not as yet been used for this purpose although they will be ultimately so used, and that in the meantime they are lying idle, unoccupied and receiving no benefits by their being within said irrigation district.

QUESTION

Based upon these facts you request the opinion of this office on the following question:

Are lands lying within the Washoe Water Conservation District and owned by the Nevada State Highway Department subject to assessments for operation and maintenance of the district and for bond retirement purposes?

OPINION

We answer the question in the negative for the reasons hereinafter stated.

Washoe County Water Conservation District was organized under the Nevada Irrigation District Act of March 19, 1919, being Sec. 8008-8097 N.C.L. 1929, as amended. Sec. 32 of the Act provides in effect that expenses incurred for operation, maintenance, etc., of an irrigation