As to your second question, I am of the opinion that Justices of the Peace are judicial officers and within the meaning of subdivision 3 of section 1 of the Primary Act. (Stats. 1917, p. 276.)

I am therefore of the opinion that candidates for Justice of the Peace can only be nominated in the primary election and may not be nominated petition.

Hoping this answers your questions and thanking you for your kindly expressions of good-will, I am

Yours very truly,

GEO. B. THATCHER, *Attorney-General*.

216. Practice—Justice of the Peace—New Trials.

It is not within the power of a Justice of the Peace to reopen a case or grant a new trial.

CARSON CITY, August 5, 1918.

HON. E.A. BLANCHARD, *Justice of the Peace, Yerington, Nevada*.

MY DEAR JUDGE: I am in receipt of yours of the 3d instant, with reference to the powers of a Justice Court to grant a new trial after a judgment has been entered. I agree with your opinion that sections 5321-5324 of the civil code on new trials are not applicable to proceedings in the Justice court.

New trials and appeals in the Justice Court are governed by chapter 83, section 3788, *et. seq*., of the Civil Practice Act. Appeals are provided for in these sections, but there is no provision either in this chapter or at any other place authorizing the Justice of the Peace to grant new trials of actions in his court. I call your attention also to the provisions of Rev. Laws, 5815, which provides as follows:

> Justice's Courts, being courts of peculiar and limited jurisdiction, only those provisions of this Act which are in their nature applicable to the organization, powers and course of proceedings in Justice's Courts or which have been made applicable by special provisions in this title, are applicable to Justice's Courts and the proceedings therein.

You will observe that the Legislature, by the provisions of this section, specifically stated that the Justice Courts are of limited jurisdiction and that the provisions of the code do not apply unless in their very nature they are made applicable to the proceedings in the court or are specially referred to in this Act. New trials are not necessarily applicable to the powers and proceedings in the Justice Courts, and there is no provision specifically adopting as part of the procedure in the Justice Court the provisions of sections 5321-5324. The very fact that the District Court provides that upon appeals the cases shall be tried *de novo* shows that the new trials were to be granted in the District Court itself.

I quite agree with you in your decision that it was not within your power to reopen the case or grant a new trial.

Yours very truly,

GEO. B. THATCHER, *Attorney-General*.

217. Elections—Registration—Transfers.

All of the provisions of the old registration law relating to transfers after close of

registration have been repealed by Stats. 1917, p. 425.

CARSON CITY, August 13, 1918.

HON. G.A. BALLARD, *District Attorney, Virginia City, Nevada*.

DEAR MR. BALLARD: I am in receipt of your favor of the 5th instant, asking certain questions in regard to the registration law. In my opinion of all the provisions of the old law relating to transfers after close of registration have been repealed by the new Act (Stats. 1917, p. 425). You state:

> I have read your opinion in regard to a person canceling his original registration, in cases where a transfer is not permitted, and registering in another county. You will see that the logic of this opinion would prevent him registering in another county after registration closes, and hence his cancelation of his registration after that time would only disfranchise him.

I do not think your conclusion logically follows, for the reason that our Constitution requires an elector to be a resident of the State six months and of the county thirty days. As no transfers are allowed except upon cancelation of the original registration and reregistration in another county, in order to be a qualified elector it is absolutely necessary that the person applying for registration should be a resident of the new county thirty days or he will be barred by the Constitution.

Yours very truly,
EDW. T. PATRICK, *Deputy Attorney-General*.

218. Criminal Practice—Appeal—Dismissal of Action.

A dismissal in an action by a District Judge on appeal for a conviction of a misdemeanor does not constitute a bar to subsequent prosecution for the same offense.

CARSON CITY, August 16, 1918.

HON. G.J. KENNY, *District Attorney, Fallon, Nevada*.

DEAR MR. KENNY: I am in receipt of your favor of the 10th instant, asking construction of Rev. Laws, 7517. It appears that a man had been tried and convicted in the Justice Court for a misdemeanor and, upon appeal to the District Court, the court dismissed the action under the above-entitled section, on the ground that the facts stated in the complaint did not constitute a public offense.

You inquire whether this dismissal constitutes a bar to a subsequent prosecution for the same offense.

In Cyc. 261, it is said:

> The accused is placed in jeopardy where he has pleaded and has been put on trial before a court of competent jurisdiction upon an indictment valid and sufficient in form and substance to sustain a conviction, and the jury has been sworn and impaneled and charged with the case.

It would follow, therefore, that if the indictment is not valid and sufficient in form and substance to sustain a conviction, the accused has not been put in jeopardy, and such is the case now before us.