

By order of the Attorney-General:

Respectfully submitted,
ROBERT RICHARDS, Deputy Attorney-General.

156. Elections--Canvass of Vote--In Case of Recount on a Tie Vote, before Board of County Commissioners, the Certificate and Minutes of Recount Are Controlling.

CARSON CITY, December 18, 1922.

HON. GEORGE BRODIGAN, Secretary of State.

Dear Sir: There has been transmitted to this department (1) the abstract of statement of the vote of Elko County at the general election held November 7, 1922, for nonpartisan state and district offices, and (2) a certified copy of the minutes of the Board of County Commissioners of November 16 and 18, 1922, wherein it appears that, upon demand of the nonpartisan candidates for the office of District Judge of the Fourth Judicial District who appeared to have received a tie vote at the general election, a recount of the ballots was had.

The abstract of statement of the vote shows that these two candidates received, respectively, 1,487 votes each, and the subsequent recount shows that one of them received 1,479 votes and the other 1,472 votes; the certificate of election for the office of District Judge was thereupon ordered to be issued accordingly. The question is: Shall the Supreme Court, acting as a board of canvassers, recognize the abstract of statement or the minutes of the Board of County Commissioners hereinabove referred to?

We are of the opinion that the minutes of the Board of County Commissioners relating to the recount had pursuant to the provisions of law, being of a later date than the date of election covered by the abstract of statement of votes, must be followed, as this later instrument is the last record authorized by law in the case of a tie vote for a public office.

By order of the Attorney-General:

Respectfully submitted,
ROBERT RICHARDS, Deputy Attorney-General.

157. Bonds, Official--Bonds Required by Law, Premium Payable Out of Public Treasury--If Official Exacts Bond from Deputy, Premium Not Payable Out of Public Treasury.

CARSON CITY, December 30, 1922.

HON. CLARK J. GUILD, District Attorney, Yerington, Nevada.

Dear Sir: The Act of the Legislature of March 24, 1917, entitled "An Act to provide surety bonds for state, district, county, city and township officers at public expense," permits the payment of the premiums for any said bonds out of the public treasury, provided that it is a bond which is required by law. If a person holding a public office exacts a bond from a deputy for his own protection and without any express provision of the law requiring said bond, then the premium for any surety bond furnished for such a purpose cannot be paid from public funds.

Yours very truly,

L. B. FOWLER, Attorney-General.