

Any elector residing within the County, may register by appearing before the County Clerk or deputy registrar, and making satisfactory answers to all questions propounded by the County Clerk touching items of information called for by such registry card and by signing and verifying the affidavit or affidavits on such card." Section 6294(7) defines the word "signature" as follows:

The word signature shall include any memorandum, mark or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto.

Section 3913, Rev. Laws, provides:

The signature of a party, when required to a written instrument, shall be equally valid if the party cannot write, provided the person makes his mark, the name of the person making the mark being written near it, the mark being witnessed by a person who writes his own name as a witness.

It appears that the person in this inquiry whose registration card is questioned complied with section 3913. It is true that in making his mark he did not make a cross or "X," but he did make a mark, and by making this mark he did so with intent to authenticate his registration card.

I am of the opinion therefore, that the law has been complied with by the registrant, and that the registry card should be accepted.

Respectfully submitted,

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

HON. J.H. WHITE, *District Attorney, Hawthorne, Nevada.*

SYLLABUS

155. Election—Registration—Chinese—Foreign-Born Chinese Whose Father Was American-Born Is Entitled to Registration and Citizenship Without Naturalization—Challenging Vote of Such Person—Statute Liberally Construed.

(1) A Chinese who was born in China but whose father was American-born is American citizen, and entitled to right of suffrage without naturalization.

(2) General Election Laws, section 23, provides for challenge.

(3) Statutes prescribing duties of registration officers should be liberally construed, so that constitutional right of suffrage be not denied.

INQUIRY

CARSON CITY, August 16, 1924.

The following inquiry has been submitted for an official opinion, to-wit:

Has the County Clerk the right to reject an application for registration in the event that answers given to questions propounded to the applicant are unsatisfactory, or it appears from the statements made that such applicant is not

entitled to register?

With this request for an opinion there is submitted the original registration card containing the signature of the party desiring to be registered, together with the answers to questions set forth on the card.

OPINION

It appears to me that the question involved in this case, and to be decided, will not rest upon the query presented.

The registration card discloses that the party desiring to be registered is a Chinese. It is stated on the card that his father was born in America and that he was born in China. It further recites that he was naturalized in 1913. The question to be decided is whether, under these facts, the registrar should register the individual.

It appears that the father of this man was born in America. This being the case, and this fact admitted, the father was a citizen of the United States.

In the case of *In Re Look Tin Sing*, 21 Fed. 905, the Court decided that:

A child born of Chinese parents within the dominion and jurisdiction of the United States is a citizen of the United States.

I am not unmindful of the provisions of the Act of Congress which prohibits the naturalization of Chinese persons. The Supreme Court of the United States, however, in the case of *United States v. Wong Kim Ark*, 42 L. Ed., p. 890, decided that:

The refusal of Congress to permit the naturalization of Chinese persons cannot exclude Chinese persons born in this country from the operation of the constitutional declaration that all persons born in the United States subject to the jurisdiction thereof, are citizens of the United States.

It having been stated, and admitted that the father of the appellant was born in America, and therefore is a citizen of the United States, the fact that the appellant was born in China would in no way affect his status as an American citizen.

The foreign-born children of a citizen are themselves citizens. In the application of this rule it is wholly immaterial whether the parents are citizens by birth or naturalization. *Ex Parte Wong Fu*, 230 Fed. 534.

While it is true that the appellant states he was naturalized in the year 1913, and no naturalization papers were exhibited, yet, under the facts stated by him, there was no necessity for his being naturalized, and his citizenship rests upon the fact that his father was born in America. I am, therefore, of the opinion, that the registration card should be accepted and if any person desires to challenge his right to vote, section 23, General Election Laws, provides a remedy.

We must remember in this and other cases, dealing with the right of an individual to vote, no technical or strict construction should be placed upon the law, if in doing so, the constitutional right of suffrage is to be defeated.

It is a general rule that statutes prescribing the power and duties of registration officers should not be so construed as to make the right to vote by registered voters, dependent upon a strict observance of such officers, of minute direction of the statute, thereby rendering the constitutional right of suffrage liable to be denied through fraud, caprice, ignorance or negligence

of the registrar. 20 C.J. sec. 66.

Respectfully submitted,

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

HON. J.H. WHITE, *District Attorney, Hawthorne, Nevada.*

SYLLABUS

156. Nevada Industrial Insurance—Men Working on Mining Property for Leaser are Employees of Lessor—Lessor Required to Report and Pay Premium—Statute Liberally Construed.

(1) Nevada Industrial Insurance Act, section 7 1/2 (a), (d): Men working for leasers on mining property are in employment of lessor, whose duty it is to report to Commission and pay premiums on men so employed.

(2) The statute is remedial and should be liberally construed.

INQUIRY

CARSON CITY, August 19, 1924.

Reference is made to Opinion No. 142. In this opinion it was held that under Section 7 1/2 (d) "leasers" were employees of the lessor.

The present inquiry seeks to have determined the status of those employed at a given or stipulated wage by the "leasers." Are such workmen considered employees of the leasers or lessor, under the provisions of the Nevada Industrial Insurance Act?

OPINION

Section 7 1/2 (a) defines the term "employee" to mean "every person, firm, etc., * * * which has any person in service under an appointment or contract for hire * * *." An employee is defined to mean "every person in the employment of an employer as defined in subdivision (a) of this section, under any appointment or contract for hire * * *."

It must be remembered that the Nevada Industrial Insurance Act is a remedial statute, adopted for the purpose of giving protection to men employed in various capacities, and is, therefore, to receive a liberal construction.

The Legislature, by enacting section 7 1/2 (d) brings within the purview of the Act, leasers who work on the mining property of the lessor. The same liberal spirit which prompted the Legislature to enact this measure would support the construction that men employed by the leasers were employees of the lessor.

In any event it would be paradoxical to so construe the Act and hold that the leasers were employees of the lessor, and the men working for the leasers were not.

Giving to the provisions of this Act a liberal construction, I am of the opinion that men working for the leasers are to be considered, for all purposes of the Nevada Industrial