

3. Yes. It is provided by section 6448, N.C.L. 1929, and by section 4 of the 1933 Statutes of Nevada, chapter 99, at page 123, that the purchaser at the delinquent tax sale is entitled to collect from the owner at the time of redemption all taxes, penalties and costs, together with interest thereon at the rate of 10 percent per annum from the date of said sale until paid.

Respectfully submitted,

GRAY MASHBURN, *Attorney-General*.

By JULIAN THRUSTON, *Deputy Attorney-General*.

HON. MELVIN E. JEPSON, *District Attorney, Reno, Nevada*.

SYLLABUS

OPINION NO. 1933-119. Legal Residence—Poor Laws.

1. The fact that a citizen is a pauper does not prevent him from establishing a “legal residence” in Nevada.

2. The question of the intention of the person to remain permanently in this State, as the same applies to “legal residence” must be determined from the facts and circumstances of each particular case.

STATEMENT

CARSON CITY, October 28, 1933.

A woman and her children went to Washoe County, Nevada, and remained there slightly more than one year, during all of which time she and her children were cared for by public relief funds. They then left Washoe County, Nevada, and went to Los Angeles County, California. We now have a letter from the Los Angeles County Welfare Board stating these facts and requesting our permission to return them to Washoe County, Nevada, where they will again become a public charge of said county and State.

INQUIRY

1. Will you please give a ruling on whether a pauper can establish a legal residence in Washoe County, Nevada?

2. Should we, under the above statement of facts, according to our law, give permission for the return of this woman and her children to Washoe County, Nevada?

OPINION

1. Yes. Any person, regardless of financial condition, who comes to any county in Nevada, with the intention of making this State his or her permanent home, and who does actually make such home within a county thirty days and within the State six months, maintaining such intention during all of such time, thereby becomes a qualified voter and resident of this State and of the county in which he or she may reside.

2. The intention of the person to remain permanently within this State must in every case be determined from the facts and circumstances of the particular case. The facts and circumstances related in the above statement make it plain and evident that this woman and her children came into the State of Nevada and Washoe County with no intention to remain permanently or to make it their permanent home; but came to said State and county solely for the purpose of obtaining relief. They never did, therefore, become legal residents of the State of Nevada or of Washoe County. Accordingly, permission to return them to any county within the State of Nevada should be refused.

Respectfully submitted,

GRAY MASHBURN, *Attorney-General*.

By JULIAN THRUSTON, *Deputy Attorney-General*.

HON. MELVIN E. JEPSON, *District Attorney, Reno, Nevada*.

SYLLABUS

OPINION NO. 1933-120. Fish and Game Laws—Powers of County Commissioners.

The County Commissioners do not have the power or authority to designate the sex of the game birds or animals which may be killed during an open season thereon.

INQUIRY

CARSON CITY, December 11, 1933.

Have the County Commissioners of the various counties of the State the authority to designate the sex of the game birds or animals which may be killed during an open season thereon?

OPINION

The inquiry presents a question dealing with delegation of legislative power. The Legislature cannot delegate legislative power, *i.e.*, the power to decide and express what the law shall be on the subject of legislation, as this is the exclusive province of the Legislature. However, the Legislature may delegate the power to determine some fact and state of things on which the law enacted by the Legislature makes its own operation depend. *Giocchio v. Shaughnessy*, 47 Nev. 129. In order, however, that the delegation of the power to determine the facts upon which the law will operate may be effective, the completeness of the statute when it leaves the Legislature is involved, *i.e.*, that the Legislature does not leave to the officer or administrative board to whom the power under consideration is granted the right to say what the law on the subject shall be when the facts are determined upon which the law shall operate.

Whether or not male game birds or animals only are to be killed during an open season is a legislative matter and within the purview of legislative powers only, and it may not be delegated to any board or officer by the Legislature. The Legislature could delegate to the Boards of County Commissioners the power to ascertain and determine whether, in order to protect and propagate game birds and animals, it was necessary to limit the killing thereof to the males of the species, provided it so legislated as to write into the statute that, if the Boards of County Commissioners so found and determined the facts to be that a limiting of the right to kill to the killing of the males of the species was necessary for the protection or propagation thereof, then it should be unlawful to kill the females, and authorize such Boards to so declare.

An examination of the Fish and Game statutes of this State fails to disclose that the Legislature delegated to the Boards of County Commissioners the power to ascertain and determine any facts pertaining to the killing of game birds and animals with respect to the classification by sex and the power to prohibit the killing of either sex. The Legislature itself has not so legislated, save and except as to deer.

Entertaining the views above stated, we are constrained to answer the inquiry in the negative.

Respectfully submitted,

GRAY MASHBURN, *Attorney-General*.

By W. T. MATHEWS, *Deputy Attorney-General*.

STATE FISH AND GAME COMMISSION, *Reno, Nevada*.
