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August 14, 1954  
Letter Opinion  
No. 54-209-L

The Honorable David S. Wine  
State Representative  
P.O. Box 539  
Ajo, Arizona

Re: Application for absentee ballot

Dear Dave:

This is in response to your request of August 11, 1954, for our opinion dealing with the following problems:

1. "Do the election laws of Arizona permit or require the Justice of the Peace or a Deputy County Recorder in Ajo to furnish to qualified voters an absentee ballot when application is made to them for such official absent or disabled voters ballot, assuming that such voter complies with all other requirements of the statutes?"
2. "Is the County Recorder authorized by law to furnish to the Justice of the Peace or a Deputy County Recorder the absentee voting materials which include the application and the ballot for delivery to a qualified voter who makes request therefor?"

By virtue of the provisions of Section 55-202, A.C.A. 1939, as amended, County Recorders and Justices of the Peace are "registration officers" within the meaning of Sections 55-1302 and 55-1305, A.C.A. 1939, as amended. A Deputy County Recorder is also authorized by law to exercise such of those duties of the County Recorder as the County Recorder may direct him to so perform. (Section 12-202, A.C.A. 1939)

Concerning the duties of such registration officers with reference to absentee ballots, Section 55-1302, provides as follows:

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"55-1302. Application for ballot.--  
(a) Within thirty (30) days next preceding the Saturday before any primary or general election, an elector may make request by telephone or mail to any registration officer in the state for an application for a ballot and an official absent or disabled voter's ballot, or, if absent from the state during the thirty (30) days next preceding the election, may upon the application blank provided therefor apply for such ballot by appearing before a notary public or other officer qualified to administer oaths within the state of temporary residence, swearing and subscribing to the application and returning the original and duplicate to the recorder of the county in which the elector is registered. Upon receipt of such application, if in proper form, the recorder shall mail postage prepaid to the elector the ballot applied for, together with the envelope for its return. After making and subscribing the affidavit provided for upon the return envelope, the elector may mark the ballot and return it to the recorder of the county in which he is registered, or the recorder may, when deemed expedient, mail the application with the ballot and determine the sufficiency of the application upon receipt of the ballot and the application."

The duties of such registration officers as they relate to the request for absentee ballots, are further prescribed in Section 55-1305, A.C.A. 1939, as amended, in the following manner:

"55-1305. Affidavit for absent or disabled voter's ballot.-- (a) Upon receiving a request for an absent or disabled voter's ballot, the recorder or registration officer shall deliver or mail to the elector an application for an absent or disabled voter's ballot and require the completion of the application before delivering to

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the elector an absent or disabled voter's ballot, or, in his discretion, the recorder or registration officer may deliver or mail to the elector the application for a ballot together with the ballot itself. The ballot shall be one prepared for use in the precinct in which the applicant resides, and, if a primary election, of the political party with which the applicant is affiliated as shown by the affidavit of registration. \* \* \*

An examination of the above quoted statutory sections reveals that within the time limit therein prescribed, any qualified elector may apply for absentee ballots and that such application may be made either to the County Recorder, the Deputy County Recorder, or to the Justice of the Peace in the county in which the elector is registered.

It should be noted, however, that according to the above statutory sections, the ballot itself must be returned to the County Recorder and may not be returned to any other registration officer.

Specifically answering your first question, it is the opinion of the Department of Law we must answer the same in the affirmative.

With reference to your second question, we should like to quote a portion of Section 55-1304, A.C.A. 1939, as amended.

"55-1304. Form of application.--

(a) Application for an absent or disabled voter's ballot shall be made in duplicate upon blanks furnished by the county recorder of the county in which the election is to be held. \* \* \* (Emphasis supplied)

It will thus be seen that the County Recorder is authorized to furnish application blanks to qualified electors. Reading the above quoted section, in conjunction with Section 55-1302 and 55-1305, supra, it is the opinion of the Department of Law that the County Recorder is further authorized to furnish the Justice of the Peace and Deputy County Recorders the voting materials necessary for the completion of the absentee voting procedure, inasmuch as the above mentioned registration officers are charged with the duty of delivering absentee ballots to qualified electors when application

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is made to them for such ballots.

Very sincerely yours,

JAMES P. BARTLETT  
Special Assistant to  
The Attorney General

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