

November 22, 1934.

Mr. John A. McGuire, County Attorney,  
Yavapai County,  
Prescott, Arizona.

Dear Mr. McGuire:-

I have been requested by the clerk of your Board of Supervisors to render an opinion regarding vacancies in the legislature. I am sending this letter to you in response to such request, and ask you to communicate with him.

In the event a vacancy occurs among the members of the legislature on the date that a special session is called, the Governor may call a special election to fill such vacancy, within two days after the vacancy occurs. If, in the opinion of the Governor, such special session is not likely to continue for a sufficient period of time to justify such an election, the Board of Supervisors of the county in which the vacancy occurs are required by law to appoint some qualified elector of the same political faith, and a resident of the same legislature district, to fill the vacancy. I am also of the opinion that if the Governor should notify the Board of Supervisors, prior to the expiration of the two days allowed by the statute, that he does not deem it necessary to call a special election, that the Board of Supervisors immediately has jurisdiction to make an appointment. See Sections 1296 and 1302 R. C. A. 1928.

I am of the opinion that a vacancy does not occur in the office of representative or senator by virtue of the fact that the said legislator ceases to be an inhabitant of the county or the legislative district for which he was chosen or appointed. Your attention is directed to Section 94 R. C. A. 1928. This Section in part reads as follows:

"An office shall be deemed vacant from and after the happening of either of the following events before the expiration of the term - - - his ceasing to be an inhabitant of the state or, if the office be local, of the district, county, city or precinct for which he was chosen or appointed, or within which the duties of his office are required to be discharged" - - -

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Mr. John A. McGuire  
County Attorney

-2-

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I am of the opinion that a legislator does not occupy a "local office", within the meaning of this section, rather he is legislator for the entire state. In this behalf, I direct your attention to the following authorities:

94 S. E. 1001 Good case  
21 Wisconsin 443, 460  
137 So. 737  
71 N. Y. S. 44 What is local office?  
24 Ind. 101 Be sure and read this case.

Very truly yours,

ATL/hs

Attorney General

GEOR