

July 24, 1936.

Mr. W. H. Linville,
County Recorder,
Phoenix, Arizona.

My dear Sir:

Your communication making inquiry concerning the right of citizens of the United States who might be employed by the Civil Conservation Corps or Public Works Administration to register and vote in the coming election has been received.

You inquire whether such employment is a Federal service; whether a man who has been transferred to a camp from another State more than a year prior to the date of the general election may vote in Arizona and whether residents of the State of Arizona so employed having been within the camp for a period of thirty days, should be considered residents of the precinct within which the camp is located. Unquestionably the employment is Federal service. This does not mean however that one who comes from another State for the purpose of such employment cannot establish a residence in the State of Arizona which would qualify him to vote therein. Section 3 of Article VII of the Constitution of the State of Arizona provides in substance that for the purpose of voting, no person shall be deemed to have gained or lost his residence by reason of his presence or absence while employed in the service of the United States. Several of the States of the Union have identical provisions and the construction thereof has been before the Supreme Courts. The interpretation placed upon such a provision by the States of Oregon and California, which we deem to be a correct interpretation, is in effect that the fact that one is employed in the service of the United States does not prevent him from establishing a residence for the purpose of voting within the State where employed. Day vs. City of Salem, 131 Pac. 1028; Stewart vs. Kyser, 39 Pac. 19.

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The interpretation we place upon these decisions is that the test as to whether one becomes a resident of the State in which he is employed in Government service is purely a matter of his personal intention. If he comes here with the purpose and intent of making this his permanent domicile, the circumstance that he was brought here in Government service does not prevent his establishing such residence in such manner. The following quotation from the case of Day vs. City of Salem states the rule:

" These provisions (referring to provisions similar to the constitutional provisions herein quoted) do not prevent such persons from becoming residents if such is their purpose and if they are able to choose."

We believe that the same test should be applied to a resident of the State of Arizona as to his right to vote in a particular precinct in which he might be located while employed. If it be the resident's purpose and intent to permanently reside in that precinct, we think that he could thus establish a residence therein for the purpose of voting.

We express these views upon the theory that you desire to be informed so as to advise applicants for registration whether they may honestly fill out and swear to the registration blank. We think it is not a function of the Recorder to pass upon the question whether a man does or does not possess the residential qualifications if he is willing to make oath to that effect. In other words, the cases seem to hold under statute similar to ours, that a registration officer does not possess inquisitorial powers, but his duties are of a ministerial nature and should an applicant comply with the statute as to information, application and oath, it would be the Recorder's duty to register him.

Very truly yours,

JOHN L. SULLIVAN,
Attorney General

DUDLEY W. WINDES,
Special Assistant
Attorney General.