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ARIZONA ATTORNEY GENERAL

June 21, 1950

Honorable F. Lewis Ingraham
Yuma County Attorney
Yuma, Arizona

Dear Mr. Ingraham:

Replying to your letter of June 2, 1950, wherein you write, "The question has come up with the local recorder's office as to whether or not a person who cancels his registration because of change of address (because of change from one precinct to another) under Section 55-208, can reregister with a different party affiliation after April 30th."

You are advised as follows: We have read all the statutes regarding registering and reregistering and many cases dealing with this subject. We have failed to find a case directly in point on this particular question. We can see wherein one may get the idea that an elector who moves from one precinct to another more than thirty days before an election, in order to vote must cancel his original registration and reregister and when cancelled out, could register as a member of a different party even after April 30 of any election year.

The Court, in the case of Whittman v. Moore, 59 Arizona 211, 125 Pac. 2d 445, discusses many registration situations and said, with reference to the first part of Section 55-208, ACA 1939, as follows:

"It is obvious from these two sections that when a registered voter has removed from the precinct in which he is registered and has not transferred his registration to the new precinct in the manner required by law, he loses his right to vote in either precinct, with the exception that if the removal has been within thirty days preceding the election, he votes in the

precinct in which he was originally registered. The finding of fact is that the persons signing the petition were not registered in the precinct in which they stated they lived. Under those circumstances, the law is explicit that unless a change in residence had occurred within thirty days of the election they were not qualified electors. The affidavits, on their face, all show that the signatures were affixed much more than thirty days before the election at which the initiative measure was to be submitted. We think the court, therefore, correctly rejected the names of the petitioners to whom this objection applied, in the absence of affirmative proof that their residence was incorrectly given in the petition and that, as a matter of fact, they were legally and properly registered in the precinct where they resided."

Using similar reasoning on the point at issue, wherein the legislature said, Section 55-208:

" * * * In like manner an elector who desires to affiliate with a political party or organization other than the one indicated by the record of his registration may make application for cancellation; provided, that cancellation for such purpose shall not be permitted in a regular election year between the thirtieth day of April and the day following such general election. * * *"

We think this section recognizes a distinction between a cancellation by reason of removal from a precinct and a cancellation to change party affiliation and limits the time in which an individual may exercise his right to change his party affiliation to the period other than the period in a regular election year between the 30th day of April and the day following the general election. In other words, a party may cancel his registration occasioned by a removal from a precinct at any time not less than thirty days before an

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election, but to cancel to change party affiliation he must cancel not later than April 30 preceding the election in an election year. We can see wherein many irregularities and injustices may occur if people could do as you intimated one might do. In addition to that, we think the proper interpretation of the section is that there should be no change of party affiliation through registration during the period set out by Section 55-208, supra, to-wit: "provided that cancellation for such purpose shall not be permitted in a regular election year between the 30th day of April and the day following such general election."

Yours very truly,

FRED O. WILSON
Attorney General

CHAS. ROGERS
Assistant Attorney General

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