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September 2, 1952
Op. No. 52-252

Senator Clay Simer
Winslow, Arizona

Dear Senator Simer:

This will acknowledge your oral request for an opinion on the following questions:

1. Can the County Recorder of Navajo County go to Winslow to accept applications for absentee ballots and issue absentee ballots. Objection is made because it is maintaining a voting poll at place not authorized.
2. Can State employees and officers be precinct committeemen?

With reference to your first question, Sections 55-1301 - 55-1308, inclusive, ACA 1939, provides the procedure to be taken for absentee or disabled voters. On reading the procedure followed by absentee or disabled voters, we fail to find any provision wherein the County Recorder is prohibited from going to Winslow and accepting applications for absentee ballots and issuing the absentee ballot. On the other hand, there is no provision that would compel the County Recorder to go to Winslow to accept applications for absentee ballots and issue said ballots.

The question that probably will arise or has arisen is the County Recorder's traveling expenses and subsistence while at Winslow, chargeable to the County, but we do not pass on that question.

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Section 55-1306 answers your question; that no voting place has been designated for absentee voters. Said section reads as follows:

"Preparing and transmitting ballot.--
The absent or disabled voter shall, if without the state, make and subscribe said affidavit, before any officer authorized by law to administer oaths, and if within the state, before any registration officer of the state, and such absent or disabled voter shall thereupon, in the presence of said officer and no other person, mark the said ballot, in such manner that the officer can not see the vote, and the ballot shall thereupon, in the presence of such officer, be folded by the voter so as to conceal the vote, deposited by the voter in said envelope, the envelope securely sealed, signed by the officer, and delivered or mailed, postage prepaid."

It is to be noted that an absentee voter can make and subscribe an affidavit before any officer authorized by law to administer oaths. It of course follows that the oath can be taken at the office of the officer administering the oath, including the County Recorder who voluntarily establishes an office in Winslow.

In answer to your second question, Section 12-101, ACA 1939, so far as material to your question, defines "public officer" as follows:

"Definitions.--

* * * * 'public officer', unless the context otherwise requires, is meant the incumbent of any office, member of any board or commission, his deputy or assistant exercising the powers and duties of such officer other than clerks or mere employees of such officer."

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It is generally agreed that the party committeemen do not become public officers by reason of the fact that they are elected at a statutory primary election, because the duties of a public office are in their nature public; that is, they involve in their performance the exercise of some portion of the sovereign power, whether great or small, in the performance of which all citizens, irrespective of party, are interested, either as members of the body politic or of some duly established division of it. Membership in a political party does not come within the above description of what constitutes public office and the fact that the Legislature undertakes by statute to regulate the election and conduct of political committees does not make the office a public one. Committeemen are officers of the party which elects them and their duties are confined to matters pertaining to the party to which they belong and which alone is interested in their proper performance.

In this State we have several departments that the officers and employees are prohibited from taking active part in party politics or serve on any committee of a political party. The State Highway Department, the State Liquor Department and the Industrial Commission have provisions prohibiting officers and employees from taking active part in politics.

Trusting the above answers your questions satisfactorily, we are

Respectfully yours,

FRED O. WILSON
Attorney General

MAURICE BARTH
Assistant Attorney General

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