



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 20, 1976

ATTORNEY GENERAL OPINION NO. 76-225

Mr. Tim R. Karstetter
Assistant County Attorney
Home State Bank & Trust Building
Post Office Box 1103
McPherson, Kansas 67460

Re: Elections--Ballots--Names

Synopsis: The name of a candidate for nomination as county commissioner, or for nomination to any other public office, may not appear on the same ballot as a candidate for election as precinct committeeman or committeewoman.

* * *

Dear Mr. Karstetter:

K.S.A. 25-613 states in pertinent part thus:

"Except as otherwise provided in this section, the name of each candidate shall be printed on the ballot once and no more The name of any candidate on the ballot may appear a second time as a presidential elector. No name that is printed on the ballot can be written elsewhere on the ballot."

You inquire whether the name of a candidate for county commissioner may be printed or written on the ballot also as a candidate for the position of precinct committeeman.

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This question has been presented before. In an opinion dated July 19, 1956, Attorney General John Anderson, Jr., stated that the office of precinct committeeman was of a different nature from the office of state representative, and therefore G.S. 1949 25-602 did not prevent the same name from appearing on the ballot as a candidate for both positions. In another letter from General Anderson, dated March 23, 1956, to Walter McVey, he states thus:

"There is no prohibition in the law against a person holding an elective state office and at the same time holding a precinct committee post in the party organization. As you have observed, many of the legislators are holding precinct committee posts and some of them are committee chairmen."

Finally, in a letter from Attorney General Harold R. Fatzer to Glee Smith, dated June 12, 1952, he states thus:

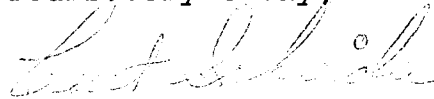
"Inasmuch as the office of precinct committeeman is not a state office nor a county office but is strictly a party office, it is our view that G.S. 1949 25-602 would not prohibit the same name being printed twice on the ballot."

In each instance, the Attorney General seemed to conclude that because one person could legally hold both offices at the same time, G.S. 1949 25-602 did not apply. However, the prohibition of K.S.A. 25-613 against the appearance of a name twice on a single ballot is not based upon the nature of the offices or positions sought, nor is it based upon the legal compatibility or incompatibility of the offices. It is an unequivocal and unqualified prohibition against *any* name appearing twice on the same ballot as a candidate, regardless of the office or position sought. A person who is a candidate for election to the position of precinct committeeman is equally a candidate, so far as concerns the ballot, as is the person who is a candidate for nomination to the office of county commissioner. Moreover, the position of precinct committeeman in Kansas is not strictly a political party office, for precinct committeemen and committeewomen are vested with the authority of the state to fill vacancies in a number of public officers, and by virtue of their exercise of this governmental power, they are public officers, and not merely officers of political parties. See *State ex rel. McCurdy*, 9 Ohio App.2d 280, 224 N.E.2d 353 (1967), as discussed in Opinion No. 75-193.

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Accordingly, in my opinion, the name of a candidate for the office of county commissioner may not also appear on the same ballot as a candidate for election as precinct committeeman or committeewoman.

Yours, very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj