

which the woman resided, the court found that the residence requirement did not affect the validity of the license issued, or of the marriage. This results from the directory nature of the laws concerning marriage. Absent any expressed statutory provisions nullifying a marriage, a marriage is valid even though the license was issued improperly. *Johnson v. Johnson*, 8 N.W.2d 620 (Iowa 1943); *Caras v. Hendrix*, 57 So. 345 (Fla. 1912).

The only Florida provision which would nullify a marriage is the provision concerning the validity of common law marriages entered into after January 1, 1968. Section 741.211, F. S. This statute is limited, however, to consensual marriages and does not extend to marriages which are entered into in good faith by the party asserting the marriage and which marriage was in substantial compliance with the applicable statutes but is otherwise defective. Therefore, under the prevailing and generally accepted view, the mere issuance of a marriage license in a county other than that "wherein the woman resides" would not of itself invalidate the marriage.

073-417—November 13, 1973

### ELECTIONS

#### POLITICAL COMMITTEE APPOINTED UNDER FEDERAL LAW MAY NOT ACT AS CAMPAIGN TREASURER UNDER FLORIDA LAW

To: *Richard (Dick) Stone, Secretary of State, Tallahassee*

Prepared by: *Bjarne B. Anderson, Jr., Assistant Attorney General*

#### QUESTION:

May a candidate for representative in Congress appoint a political committee, organized under the Federal Election Campaign Act of 1971, as his campaign treasurer in lieu of a specific individually designated campaign treasurer under the provision of §2(1)(a), Ch. 73-128, Laws of Florida [§106.021(1)(a), F. S.]?

#### SUMMARY:

A candidate for federal office as U. S. Senator or Representative to Congress may not appoint a political committee organized under the Federal Election Campaign Act of 1971 (P.L. 92-225) as his campaign treasurer. Candidates for such national offices are required by §2(1), Ch. 73-128, Laws of Florida [§106.021(1), F. S.], to appoint an individual who is a registered voter in Florida as his or their campaign treasurer. Any such qualified individual may be appointed and serve as the campaign treasurer of such candidate and of a political committee organized under Ch. 73-128 or the treasurer of a political committee organized under P.L. 92-225.

Your question is answered in the negative.

Section 2, Ch. 73-128, Laws of Florida [§106.021(1)(a), F. S.], provides in part that:

(1)(a) *Each candidate for nomination or election to office and each political committee shall appoint a campaign treasurer. . . .*  
(Emphasis supplied.)

A "campaign treasurer" is defined by §1(8), 73-128, *supra* [§106.011(8), F. S.], as:

. . . an *individual* appointed by a candidate or political committee as provided in this act. (Emphasis supplied.)

The Florida Election Code, §99.061(1), F. S., requires, *inter alia*, that

[c]andidates for nomination of any recognized political party . . . for the offices of representatives to congress and United States senate are required to file their qualification papers and pay the qualification fees and party assessment, if any has been levied, to the department of state. . . .

Section 100.031, F. S., provides for the biennial general election at which the electors choose persons to fill all vacant federal offices required to be filled by election. Section 1(9) of Ch. 73-128, *supra* [§106.011(9), F. S.], defines the term "public office" to include any national office that is filled by the voters; and §25, Ch. 73-128 [§106.25, F. S.], provides for the investigation and legal disposition of alleged violations of the Florida act by candidates for federal office. It is evident, therefore, that the Florida laws regulating elections and campaign finances apply to candidates for the offices of representative to Congress and United States Senate.

It should be noted that though the State Legislature may prescribe the means of holding elections for U.S. Senators and Representatives, Congress is empowered to make or alter such regulations as it may deem appropriate. *See* U. S. Constitution, Art. I, §4.

In AGO 072-58 I previously noted, in regard to the application of §99.193, F. S., to U.S. Senators and Congressmen filing reports on testimonial affairs, that the authority of Congress and any state to regulate contributions to congressional officers nominated and elected from the state is a concurrent power. Thus, to the extent that Congress has not restricted state action in regard to campaign contributions and expenditures, the State Legislature is free to enact laws which it deems appropriate in regard to these elected congressional officials. Attorney General Opinion 072-58. Accordingly, such national or federal officers are subject to former §99.161, F. S., which was repealed and substantially reenacted by Ch. 73-128, *supra*, which is of present concern.

The Federal Election Campaign Act of 1971 (P.L. 92-225) provides in part for the financing of a candidate's campaign for nomination or election to the Congress through the utilization of a "political committee."

Section 201, Title II, *supra*, which amends Title 18 USC, §591, defines "political committee" to mean:

(d) . . . any individual, committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding \$1,000 . . . .

and defines the term "person" to mean:

(g) . . . an *individual*, partnership, *committee*, association, corporation, or any other organization or group of persons. . . . (Emphasis supplied.)

The Federal Elections Campaign Act of 1971, *supra*, does not provide for a specific candidate's campaign organization or separate campaign treasurer as does Florida's new campaign financing law, §2(1)(a), Ch. 73-128, *supra* [§106.021(1)(a), F. S.]. Rather, §304(a), P.L. 92-225, *supra*, states in part that:

*Each treasurer of a political committee supporting a candidate or candidates for election to Federal office and each candidate for election to such office, shall file with the appropriate supervisory officer reports of receipts and expenditures . . . .* (Emphasis supplied)

Apart from the treasurer of a political committee or a candidate himself reporting

contributions and expenditures, the federal act is silent except for those persons who make contributions and expenditures over one hundred dollars and are otherwise outside of these two categories. See §§305, 306, P.L. 92-225.

Florida law, §2(4), Ch. 73-128, *supra* [§106.021(4), F. S.], provides that no contribution or expenditure in furtherance of any candidacy or on behalf of any political committee shall be directly or indirectly made or received except through the duly appointed campaign treasurer of the candidate or political committee.

On the other hand, in regard to the disclosure of federal campaign funds §302(a), P.L. 92-225, *supra*, states in part:

. . . No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

The Federal Election Campaign Act of 1971 was not intended by Congress to invalidate or make inapplicable any provision of Florida's election laws except where compliance with Ch. 73-128, *supra*, would result in a violation of the federal act. See §403(a), P.L. 92-225, *supra*.

Copies of all campaign reports filed under the federal act are also required to be filed with the secretary of state (or equivalent state officer) of the appropriate state (§309(a), P.L. 92-225); and pursuant to §3(1) of Ch. 73-128, *supra* [§106.03(1), F. S.], committees required by the Federal Campaign Communications Act of 1971 (P.L. 92-225) to file statements of organization with federal officials may file a duplicate copy of such statements in lieu of the statement required by §3, Ch. 73-128. Thus, there appears to be mutual recognition of federal and state responsibility to protect the purity of elections.

Neither the federal nor the Florida statute prohibits the treasurer of a political committee organized under the federal act from being designated as the campaign treasurer of a federal candidate's personal campaign organization, provided such an appointed treasurer is a registered voter in this state. See §2(1)(c), Ch. 73-128, *supra* [§106.021(1)(c), F. S.].

Section 2(1)(c), *supra*, in part provides that: An individual may be appointed and serve as campaign treasurer of a candidate and a political committee or two (2) or more candidates and political committees.

073-418—November 13, 1973

### BOARD OF BUSINESS REGULATION

#### NO AUTHORITY TO ADOPT PRICE-POSTING REGULATIONS FOR ALCOHOLIC BEVERAGE WHOLESALERS

To: Lew Brantley, Senator, 8th District, Jacksonville

Prepared by: Barry Scott Richard, Deputy Attorney General

#### QUESTION:

Does the Board of Business Regulation have the statutory authority to promulgate "price-posting" regulations affecting the wholesale liquor industry?

#### SUMMARY:

The Board of Business Regulation does not have the statutory authority to promulgate "price-posting" regulations affecting the wholesale liquor industry, which regulations would include a freeze on prices.

I understand that the price-posting regulations which you referred to would