

March 1, 1937

Hon. E. H. McEachren
Senate
Capitol Building
Phoenix, Arizona

My dear Senator:

You asked me if there was anything in the law which would prohibit you accepting the appointment as Commissioner under the Unemployment Compensation Law.

I have examined the Constitution and statutes and the decisions of the Supreme Court of the State of Arizona and find the following: It appears that the Unemployment Compensation Law was enacted by the First Special Session of the Twelfth Legislature in November, 1936; that you were a member of the State Senate at that time; that you were elected as State Senator from Gila County for the following term which began January 11, 1937.

The Constitution of the State of Arizona, Article IV, Section 5, provides:

" No member of the Legislature, during the term for which he shall have been elected, shall be appointed or elected to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during said term."

The Supreme Court of the State of Arizona in the case of Priser vs. Frohmiller, decided May 2, 1933, and found in 21 Pac. (2d) Page 927, discussed "terms" as related to members of the Legislature and used this language:

" * *The term of plaintiffs' office is two years. Section 21, pt. 2, Id. Regular session of the Legislature, after the first one, 'commence on the second Monday of January next after the election of members of the Legislature.' Section 3, pt. 2 Id. Thus it is seen that the reduction of the per diem was not during

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the term of office, but before the term commenced."

Under this construction you are now serving a new term which began the second Monday in January. The term for which you were elected and at which the Unemployment Compensation Law was enacted, has expired.

It is the opinion of this office that if no legislation is enacted at this session which changes the personnel of the Commission or creates a new Commission, or the emoluments of the office are not increased at this term, you would be eligible to appointment to the Board of Commissioners upon your resignation as a member of the Legislature.

Very truly yours,

JOE CONWAY
Attorney General

E. G. FRAZIER
Special Assistant
Attorney General