

July 19, 1938

Hon. James Kerby  
Secretary of State  
Phoenix, Arizona

# LAW LIBRARY ARIZONA ATTORNEY GENERAL

Dear Sir:

We have your letter dated June 23, 1938 wherein you enclosed a request for an opinion from Arthur C. Guthrie, Tucson, Arizona.

It seems that Mr. Guthrie was appointed a Notary Public, expiring on the 30th day of November, 1940. It further appears that he was sent to the federal prison camp No. 10 for fourteen months on November 1, 1937 and was paroled June 13, 1938.

Please be advised that Section 94 R. C. A. 1928 provides in part as follows:

"Vacancy by law. An office shall be deemed vacant from and after the happening of either of the following events before the expiration of the term: \* \* \*; his conviction of a felony, or any offense involving a violation of his official duties; \* \* \*."

We are of the opinion that in accordance with the above quoted section, the office of Notary Public of the said Arthur C. Guthrie became vacant if the crime for which he served time was a felony or an offense involving a violation of his official duties, and he is at this time unauthorized to use the notary commission heretofore issued to him.

Yours very truly,

JOE CONWAY  
Attorney General

ALBERT M. GARCIA  
Assistant Attorney General

EARL ANDERSON  
Special Assistant  
Attorney General

38-151a