

April 1, 1948

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ARIZONA ATTORNEY GENERAL

Mr. W. V. Odin
Justice of the Peace
Precinct No. 1, Greenlee County
Clifton, Arizona

Dear Sir:

Since preparing our opinion upon the question in regard to the term of office of the justice of the peace and dated March 26, 1948, we have made further investigation of the matter and have come to the conclusion that the case of High v. State, decided in March, 1913, and reported in 14 Ariz. at page 429, is conclusive as to the present law in that matter.

The decision of the court in the High case is to the effect that the Constitution of Arizona by the provisions of Article 7, section 11, fixes the term of office of justice of the peace at two years.

The provision of the Constitution referred to reads as follows:

"(Date of general elections.) - There shall be a general election of representatives in congress, and of state, county, and precinct officers on the first Tuesday after the first Monday in November of the first even numbered year after the year in which Arizona is admitted to statehood and biennially thereafter".

This constitutional provision is headed "date of general elections" and deals with that subject only and not with "terms of office". A reading of that section of the Constitution and of the High case readily discloses that the Supreme Court was faced with the expediency of holding the term of office for justice of the peace at that time to two years in order to smoothly

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effect the transfer from Territorial government to State government.

In our opinion the recent enactment of the four-year term legislation (Chapter 69, Laws 1945), amending section 17-504, A.C.A. 1939, is not in conflict with Article 7, section 11 of the Arizona Constitution, or any other provision thereof, and we, therefore, believe our former opinion is sound except for the High case.

The decision in the High case is the last expression directly on this point by our Supreme Court and is, we believe, the law governing the term of office unless and until that case is reversed by the Arizona Supreme Court by an appropriate action calling the court's attention to the present situation. We believe it very dangerous for present incumbents of the office of justice of the peace to assume that they do not have to run for office at the forthcoming 1948 general election as long as the High case stands.

It is therefore recommended that your organization of justices of the peace take immediate steps to attempt to get the Arizona Supreme Court to reverse its decision in the High case.

The facilities of this office will be made available to your organization to assist in this move should you desire to call upon us.

Very truly yours,

EVO DE CONCINI
Attorney General

FRED O. WILSON
Assistant Attorney General

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