

February 15th, 1912.

To his Excellency Hon. Geo. W. P. Hunt,  
Governor of the State of Arizona,  
Phoenix, Arizona.

Dear Sir:-

In response to your request of this morning for an opinion as to whether the Notary Public Commissions issued under the Territorial form of government are still in force, I have this to say:

Section 23 of the Enabling Act provides: "Until the issuance of the proclamation by the President of the United States and until the said State is so admitted into the Union the said officers (referring to the officers provided for by the Constitution and chosen by the people) are elected and qualified, under the provisions of the Constitution, the County and Territorial Officers of said Territory, including the Delegate to Congress thereof elected in the general election in 1908, shall continue to discharge the duties of their respective offices in and for said Territory."

Section 6 of Article 22 of the Constitution provides: All Territory, District, County and Precinct Officers who may be in office at the time of the admission of the State into the Union, shall hold their respective offices until their successors shall have qualified, and the official bonds of all such officers shall continue in full force and effect while said officers remain in office."

Under the provisions of the Enabling Act all Territorial officers automatically cease to serve upon the admission of the State into the Union.

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Under the Constitution all of those offices by which provision of law is made for election or appointment of successors in their respective offices, still hold until their successors are qualified. There is no provision, however, by law for a succession of office in the office of Notary Public. At the time that a Notary Public's Commission expires there is no provision by law, nor is it required by law, that a successor shall be appointed for his particular office. Therefore, Notary Public's do not come within the provisions of Section 6 of Article 22 of the Constitution, and as they do not come within said provisions it is my opinion that their commissions automatically cease to exist at the time of the admission of the State into the Union, and that, therefore, all Notary Public's desiring to remain as such must apply for a new commission.

This is a very important question for the reason that a Notary taking an acknowledgment when he no longer holds a commission may cause a defect in some title, and the Recorder's should not record instruments, except those acknowledged by Notary's appointed subsequent to the admission of the State into the Union, unless such instruments are acknowledged before some other officer of the State qualified to administer an oath.

I would, therefore, recommend that your excellency request your Secretary to immediately telegraph to all of the

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newspapers of the State of Arizona the substance of this opinion in order that the public and Notary publics' may be notified.

Very respectfully,

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Attorney-General

ON THE 15TH DAY OF THE MONTH  
MAY 1911 THE COMMISSIONER  
OF THE LANDS AND MINES  
DIVISION OF THE STATE

OPINION AS TO WHETHER  
NOTARY PUBLIC COMMISSIONS  
EXPIRE, WITH THE ADMISSION  
OF THE STATE INTO THE UNION

1850-1851

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