

Opinion No. 13-991

February 24, 1913

BY: FRANK W. CLANCY, Attorney General

TO: Mr. D. J. Thomas, Gallup, N. M.

NOTARIES.

Qualifications of notaries.

OPINION

{*156} I have received your letter of the 22nd inst. I wish that I could agree that you are qualified to receive the appointment of notary public, although you have been here only three months after an absence of something over three years. The notary public act of 1909 distinctly requires that a person to be eligible "must, at the time of appointment, have resided in the territory at least one year," and that must be held to mean residence for a year next preceding the time of appointment. I have tried to convince myself that this requirement would be met by the fact that you had resided some years ago in New Mexico for more than the time specified, as the statute does not distinctly declare that it must be immediately preceding the appointment, but I have found no authority to support such a construction which, I think, would do violence to the ordinary meaning of the language employed.

There has been no change in the law on this subject since 1909, unless something can be found in the Constitution on the subject. The only thing that I recall in the Constitution is that which is to be found in Section 2 of Article VII on the subject of qualifications to hold any public office, but those qualifications require that the office holder should be a qualified elector in the state, and to be a qualified {*157} elector he must have resided in New Mexico twelve months next preceding an election. If any election is held within the next nine months, you would not be a qualified elector.

I would like very much to be informed upon what ground the Governor of Arizona refused to honor the requisition of our Governor in the Schultz case.